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## MODERN CRIME

ITS CAUSES AND  
PUNISHMENT

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# MODERN CRIME: ITS PREVENTION AND PUNISHMENT

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## FOREWORD

SOCIETY is ever fighting the outlaws in its midst. Criminals make the most of each new means of committing crime and of escaping the clutches of the law. The advance in technical knowledge and mechanical skill is quickly used by the modern criminal. The detection of crime must, therefore, keep pace with the opportunities to deceive and to cheat (Part I).

First of all the courts themselves both in their procedure and in their sentences must keep abreast of the ways of criminals. Judge Lewis states a sound principle of sentencing when he says (page 124) that "punishment swift and sure and light is far more effective than punishment long delayed and unduly severe." One great obstacle to respect for law is politics in the courts. This extends to the occasional Judge who seeks newspaper notoriety through extortionate sentences (of those without the proper influences). And unhappily it extends at times to selecting judges as a reward for political services. But the best of judges will be handicapped by outgrown procedure. Hence an important place is given in this volume to Judicial Procedure (Part II), though the best of procedure is futile unless the best of citizens accept jury duty.

The spectacular aspects of crime are of less social peril than the roots of crime that go deep into the very foundations of our social structure. When crime is sporadic it does not gnaw into the social fabric. Crime is portentous when it is a symptom of serious social disease. How about the environment of the criminal? Tolerance for one type of law enforcement brings contempt for all law. The smug citizen

with his flask of illegal booze on his hip is a party to the murder around the corner. Are drug addicts so treated as to return them to orderly ways? How about the influence in the school, the home, the church? These are the fundamental institutions in rational social control at the source. (Part III).

And what about the punishment of crime? The greatest social burden from crime comes through the repeaters. Are our prisons and our jails schools for crime? Or can and do they turn out many ready for orderly lives? Are men given a chance to learn trades or to keep up their skill in prison so that when they do get out they do not have to go crooked to make a living? What are proper wage systems in penitentiaries? Does probation and parole aid the criminal or prevent crime? (Part IV).

Such are some of the fundamental questions the Academy has placed before those qualified by experience to answer them. This volume is sent out in the hope that the views of these may at least direct attention to fundamentals.

Special acknowledgment is due to Professor James P. Lichtenberger, Professor of Sociology at the University of Pennsylvania for aid especially as to Part I, and to Dr. Louis N. Robinson of Swarthmore for aid in Part IV. Credit is also due the many delegates from national organizations who attended and participated in the Academy Conference on this subject held in Philadelphia on February 20, 1926, the proceedings of which so largely make up this volume.

CLYDE L. KING.





# Spectacular Aspects of Crime in Relation to the Crime Wave<sup>1</sup>

BY HON. ELLEN C. POTTER

Secretary of Welfare, Commonwealth of Pennsylvania

AS we discuss this matter, may I ask you to remember this fact: We are considering crime in the United States as recorded by the statistics of 1875 and of more recent dates. We are not considering crime in the United States as contrasted with crime in other countries; that discussion must be left for others.

We have set for ourselves the task of determining whether crime in the United States is more or less prevalent than it was fifty years ago and also we shall seek to determine the attitude of the public mind toward the prevalence of crime then and now.

The world at large is definitely under the impression that there is an enormous increase in crime in the United States and that this is of recent origin.

The impression prevails that this alleged increase is due "to the war," to a "break-down of criminal justice," to "immigration," to the "negro migration," to "break-down of parental authority," to "the newspapers," etc., and that the youth of the country are the chief offenders.

It behooves us who are concerned for the promotion of the public welfare to consider the facts which are available with a view to determining the validity of this impression. Only on a basis of fact can we arrive at any intelligent conclusion as to present and future

policy in relation to handling the criminal and as to the efficiency of criminal court procedure and prison administration.

Our impressions as to the prevalence of crime are derived chiefly from our daily newspapers, the magazines, the spoken word and fundamental to these the vast and intricate machines which have been set up for the gathering and disseminating of news, that is, the great news agencies, the telegraph, telephone, radio, movie, etc.

The man and woman living on Main Street in any town have very little knowledge at first hand of crimes committed. There may be traffic violations, bootlegging, very rarely burglary or larceny, and an occasional auto bandit, but the information in regard to such matters is for the most part second hand in the form of newspaper story and editorial or magazine comment.

What facts are available on which to base a sound conclusion as to whether there is or is not a "crime wave" in these years of Our Lord nineteen twenty-five and twenty-six?

There are the figures of the census which, however, for analytical purposes bring us up only to 1923. There are reports from certain large cities with police court, criminal court and penal institutional records, but all of these records are in a form not easily accessible and poorly co-ordinated. There are state records based upon annual reports submitted by courts and penal institutions, the latter reports in many instances being incomplete and inac-

<sup>1</sup>My thanks are expressed to Emil Frankel, Statistician of the Department of Welfare of Pennsylvania, for the study of statistics; and to Walter Darlington, Special Representative in charge of publications, for a study of the news prints of 1876 and 1926, who have co-operated in the development of this paper.

curate; and the records of the several states are far from comparable.

It must, therefore, be apparent that a search for facts for dispassionate and unprejudiced analysis covering a long series of years is fraught with great difficulty. Any study of social facts, however, which fails to attempt to consider the "long swing" must fail of its purpose, which is to clarify public thought on the important matter of crime prevention and control.

In considering figures relating to crime, it must be continuously kept in mind that over a long series of years changes in the number, character and proportional relations of crimes are influenced considerably by changes in the law itself, as for example, game and fish laws; pure food, drug and liquor laws; sanitation and traffic laws; many of which laws have been placed upon the statute books within the last ten or fifteen years and have created by their presence new types of "criminals." These laws, since they restrict the preferences, desires or convenience of millions of average citizens, might be expected to raise the crest of a "crime

wave," if such exists, to an inordinate height.

It must also be remembered that the attitude of the police, the magistrates and judges of the higher courts and the sheriff may materially increase or decrease the commitments to and daily census of our prisons and workhouses.

#### COMMITMENTS

Keeping these facts in mind, may I ask you to consider first the figures of the census bulletin for the United States as a whole and compare the commitments to the prisons for 1910 as contrasted with 1923.

It is apparent, therefore, as measured by commitments, which may fairly be considered an indicator of the prevalence of crime, that in 1923 we were not, in the United States, on the crest of a crime wave; in fact, that we were 37.7 per cent below the level of 1910.

An impression is abroad that the courts have been too lenient in the sentences meted out to the hardened criminal. The census figures do not appear to sustain that view up to 1923.

Actually and in proportion to the

COMMITMENTS IN THE UNITED STATES

| Year       | Number    | Per Cent Decrease | Number per 100,000 Population | Per Cent Decrease |
|------------|-----------|-------------------|-------------------------------|-------------------|
| 1910 ..... | 479,787   |                   | 521.7                         |                   |
| 1923 ..... | 357,493 * | -25.5             | 325.1                         | -37.7             |

\* Estimate based on actual figures of first six months of 1923.

| Commitments<br>U. S. A.            | Year    |         | Per Cent<br>+ or - | Per Cent +<br>or - per<br>100,000<br>Population |
|------------------------------------|---------|---------|--------------------|---|
|                                    | 1923    | 1910    |                    |   |
| To Prisons and Reformatories ..... | 37,585  | 27,732  | +35.5              | +13.2   |
| To Jails and Workhouses .....      | 319,908 | 452,055 | -29.2              | -40.8   |
| Total .....                        | 357,493 | 479,787 | -25.5              | -37.7   |

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total population in 1923, there were more offenders committed to our penitentiaries and reformatories than in 1910 by 13.2 per cent, which would seem to indicate that at that date criminal justice was not more soft hearted than formerly.

Comparing the figures for Pennsylvania for a much longer swing than is possible for the United States as a whole, I ask your consideration of these figures.

COMMITMENTS IN PENNSYLVANIA  
*Commitments in Pennsylvania to All Prisons*

| Year      | Number | Per Cent Increase | Per 100,000 Population | Per Cent Decrease |
|-----------|--------|-------------------|------------------------|-------------------|
| 1875..... | 47,784 |                   | 1,222.4                |                   |
| 1924..... | 87,586 | +81.2             | 951.1                  | -39               |

These figures indicate that, while there has been an enormous increase in commitments to prisons in Pennsylvania (81.2 per cent) in the last fifty

TABLE 1—PENITENTIARIES AND REFORMATORIES, PENNSYLVANIA  
*Commitments 1875-1924*

| Year      | Commitments |                        |
|-----------|-------------|------------------------|
|           | Number      | Per 100,000 Population |
| 1875..... | 623         | 15.9                   |
| 1880..... | 712         | 16.6                   |
| 1885..... | 840         | 17.6                   |
| 1890..... | 1,043       | 19.8                   |
| 1895..... | 1,401       | 24.2                   |
| 1900..... | 936         | 14.9                   |
| 1905..... | 1,310       | 18.7                   |
| 1910..... | 1,196       | 15.6                   |
| 1915..... | 1,720       | 20.9                   |
| 1920..... | 2,240       | 25.7                   |
| 1924..... | 2,114       | 23.0                   |

years, there has been in proportion to the population an actual decrease of 39

per cent. This must be recognized as clearly indicating that the "crime wave" is not at its crest at this time if our situation is considered with all prison statistics combined.

What, however, is the relation between commitments to penitentiaries and reformatories as contrasted with county prisons and workhouses?

These figures indicate that in Pennsylvania there has been an actual increase of felonies and reformatory of-

fenses of 239.3 per cent and an increase per 100,000 of the population of 44 per cent; while lesser crimes have increased in numbers 81.2 per cent, but per 100,000 of population there has been an actual decrease of 23 per cent.

The individual reading his morning paper, which receives through the Associated Press and other news agencies all items of news, sensational and otherwise, from the whole world, is impressed and oppressed by the sense of an overwhelming wave of crime which has engulfed all the old standards of decency and restraint. Not even in the rush hour on the subway or the surface cars, reading his evening papers, does he sense the relation of the increasing density of population to the apparent prevalence of crime. (The population of Pennsylvania has increased 118 per cent in the last 50 years.)

The changed relation in the percentage distribution of crime is of undoubted significance in creating the impression that we are in the midst of a

TABLE 2—JAILS AND WORKHOUSES, PENNSYLVANIA  
Commitments 1875-1924

| Year      | Commitments         |                        |                    |                        |
|-----------|---------------------|------------------------|--------------------|------------------------|
|           | Sentenced Prisoners |                        | Total Commitments* |                        |
|           | Number              | Per 100,000 Population | Number             | Per 100,000 Population |
| 1875..... | 2,339               | 59.8                   | 47,161             | 1,206.5                |
| 1880..... | 2,307               | 53.9                   | 43,991             | 1,027.1                |
| 1885..... | 2,706               | 56.6                   | 54,855             | 1,147.9                |
| 1890..... | 3,129               | 59.5                   | 52,668             | 1,001.7                |
| 1895..... | 4,029               | 69.6                   | 66,419             | 1,147.4                |
| 1900..... | 4,418               | 70.1                   | 70,940             | 1,125.7                |
| 1905..... | 5,293               | 75.6                   | 77,720             | 1,109.7                |
| 1910..... | 5,318               | 69.4                   | 73,929             | 964.5                  |
| 1915..... | 6,259               | 76.0                   | 78,606             | 955.0                  |
| 1920..... | 5,124               | 58.8                   | 45,305             | 519.6                  |
| 1924..... | 10,931              | 118.7                  | 85,472             | 928.1                  |

\* Includes those sentenced at court, held for trial and summarily convicted.

COMMITMENTS IN PENNSYLVANIA  
Contrasting Penitentiaries with County and Municipal Prisons

| Commitments in Pennsylvania              | Year   |        | Per Cent<br>+ or - | Per 100,000<br>Population |         | Per Cent<br>+ or - |
|--|--------|--------|--------------------|---------------------------|---------|--------------------|
|  | 1924   | 1875   |                    | 1924                      | 1875    |                    |
|  |        |        |                    |                           |         |                    |
| To Penitentiaries and Reformatories..... | 2,114  | 623    | + 239.3            | 23                        | 15.9    | + 44               |
| To County Prisons and Workhouses.....    | 85,472 | 47,161 | + 81.2             | 928.1                     | 1,206.5 | - 23               |

crime wave. Considering the crimes against persons and against property for which prisoners were committed to the *penitentiaries* of Pennsylvania, we

find that there has been since 1875 an increase in crimes against persons of 48.7 per cent, and in crimes against property a decrease of 12.5 per cent.

PENITENTIARY COMMITMENTS, PENNSYLVANIA  
Relation Between Crimes Against Persons and Property

| Year      | Crimes Against the Person | Crimes Against Property | Total |
|-----------|---------------------------|-------------------------|-------|
| 1875..... | 20.5%                     | 79.5%                   | 100%  |
| 1924..... | 30.5% (+48.7%)            | 69.5% (-12.5%)          | 100%  |



TABLE 3—PENITENTIARIES, PENNSYLVANIA

*Convicts Committed for Crimes Against Person and Crimes Against Property, 1875-1924*

| Year       | Per Cent of Convicts Committed for |                         |
|------------|------------------------------------|-------------------------|
|            | Crimes Against Person              | Crimes Against Property |
| 1875.....  | 20.5                               | 79.5                    |
| 1880.....  | 17.6                               | 82.4                    |
| 1885.....  | 19.2                               | 80.8                    |
| 1890.....  | 23.3                               | 76.7                    |
| 1895.....  | 24.2                               | 75.8                    |
| 1900.....  | 29.4                               | 70.6                    |
| 1905.....  | 31.2                               | 68.8                    |
| 1910.....  | 38.5                               | 61.5                    |
| 1915.....  | 33.6                               | 66.4                    |
| 1920.....  | 36.7                               | 63.3                    |
| 1924*..... | 30.5                               | 69.5                    |

\* In 1924 another classification was added. The distribution was as follows: crimes against persons 28.2 per cent; crimes against property 64.3 per cent; crimes against public order 7.5 per cent.

Crimes against the person are apt to be more spectacular than other types of crime and in consequence space is accorded them in the public press out of proportion to their actual frequency.

## CRIMINAL COURT RECORDS

The records of the criminal courts of Pennsylvania afford interesting data in relation to crime as showing the relative distribution of crimes for which convictions were secured in 1875 and 1924.

These figures, based as they are upon all criminal courts of Pennsylvania, indicate a very substantial proportional decrease in many of the more sensational types of crime, that is, against persons, property, sex morality, sobriety and good order, but an enormous increase in offenses against public health, safety, public policy (inclusive of the liquor laws) and against the administration of government, and it must be recognized that these latter strike at the roots of stable government.

The reduction in the percentage of convictions for crimes of a given sort does not of necessity indicate that those crimes are less prevalent, for the failure to convict may but mean a miscarriage of justice through the delays or tricks of the practice of criminal law.

A consideration, however, of the

## RECORD OF CRIMINAL COURTS OF PENNSYLVANIA

*Percentage Distribution of Crimes for Which Convictions Were Secured*

|                                     | 1875  | 1924  | Increase or Decrease |
|-------------------------------------|-------|-------|----------------------|
| Crimes against:                     |       |       |                      |
| The person.....                     | 26.5% | 11.0% | —                    |
| Property (gainful).....             | 37.5  | 28.6  | —                    |
| Property (other).....               | 3.2   | .1    | —                    |
| Sex morality.....                   | 9.2   | 7.7   | —                    |
| Administration of government.....   | 1.8   | 2.1   | +                    |
| Public health and safety.....       | 1.2   | 9.4   | +                    |
| Sobriety and good order.....        | 8.0   | 3.3   | —                    |
| Public policy.....                  | 8.1   | 30.9  | +                    |
| Children and prisoners' family..... | 2.0   | 1.7   | —                    |
| Miscellaneous.....                  | 2.5   | 5.2   | +                    |
| Total.....                          | 100%  | 100%  |                      |

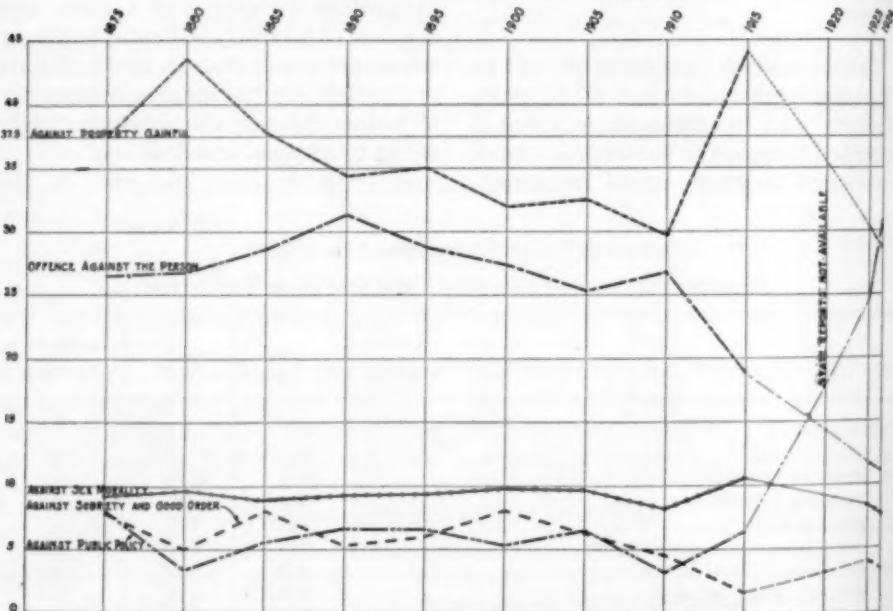
TABLE 4—CRIMINAL COURTS OF PENNSYLVANIA

*Per Cent Distribution by Offenses for Which Convicted, 1875-1924*

| Offense                                       | Per Cent Distribution by Offense |       |       |       |       |       |       |       |       |       |       |       |
|---|----------------------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
|   | 1875                             | 1880  | 1885  | 1890  | 1895  | 1900  | 1905  | 1910  | 1915  | 1920* | 1923  | 1924  |
| Against the person.....                       | 26.5                             | 26.8  | 28.6  | 31.3  | 28.8  | 27.4  | 25.3  | 26.8  | 18.8  | ....  | 11.7  | 11.0  |
| Against property (gainful).....               | 37.5                             | 43.6  | 37.8  | 34.4  | 35.0  | 32.0  | 32.5  | 29.7  | 44.1  | ....  | 30.3  | 28.6  |
| Against property (other).....                 | 3.2                              | 3.1   | .4    | 3.1   | 3.1   | 2.4   | 1.8   | 2.6   | 1.9   | ....  | .1    | .1    |
| Against sex morality.....                     | 9.2                              | 9.7   | 9.0   | 9.3   | 9.4   | 9.8   | 9.7   | 8.2   | 10.6  | ....  | 8.4   | 7.7   |
| Against the administration of government..... | 1.8                              | 2.2   | 2.0   | 2.3   | 2.2   | 2.5   | 1.6   | 2.6   | 3.1   | ....  | 2.3   | 2.1   |
| Against public health and safety.....         | 1.2                              | 1.3   | 2.4   | 2.6   | 2.3   | 2.7   | 2.2   | 2.7   | 3.7   | ....  | 10.8  | 9.4   |
| Against sobriety and good order.....          | 8.0                              | 5.0   | 8.1   | 5.3   | 6.0   | 8.1   | 6.3   | 4.6   | 1.7   | ....  | 4.0   | 3.3   |
| Against public policy.....                    | 8.1                              | 3.4   | 5.6   | 6.7   | 6.6   | 5.3   | 6.5   | 3.2   | 6.4   | ....  | 24.4  | 30.9  |
| Against children and prisoners' family.....   | 2.0                              | 2.1   | 3.1   | 3.5   | 4.3   | 5.6   | 8.2   | 12.6  | 6.7   | ....  | 1.6   | 1.7   |
| Miscellaneous.....                            | 2.5                              | 2.8   | 3.0   | 1.5   | 2.3   | 4.2   | 5.9   | 7.0   | 3.0   | ....  | 6.4   | 5.2   |
| Total.....                                    | 100.0                            | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | ....  | 100.0 | 100.0 |

\* Not reported. No state reports available.

## PER-CENT DISTRIBUTIONS OF CRIME FOR WHICH PERSONS WERE CONVICTED



criminal court records for 1875 and 1924 may be of some significance in determining whether our courts

of to-day are more or less successful in securing convictions than formerly.

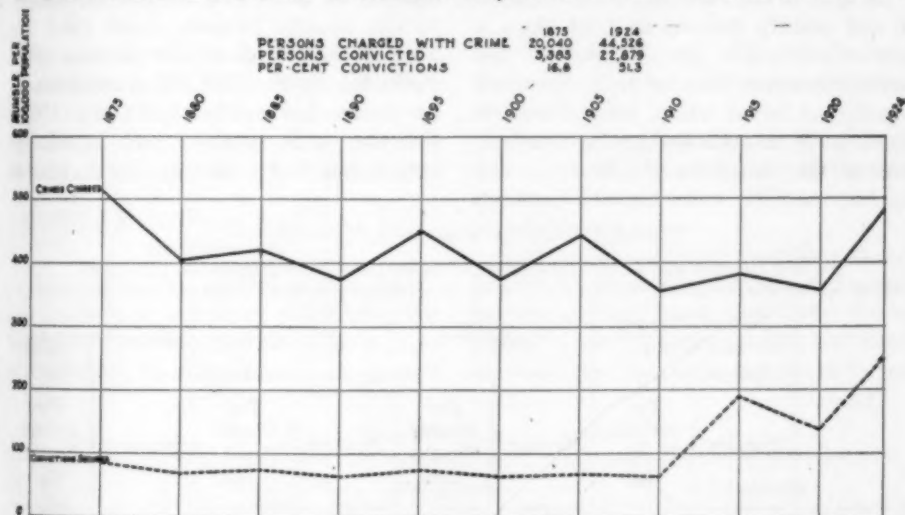


## CRIMINAL COURT RECORD in re CONVICTIONS

| Year      | Persons Charged | Per Population 100,000 | Convictions |                        | Per Cent of Convictions in Relation to Charges |
|-----------|-----------------|------------------------|-------------|------------------------|--|
|           |                 |                        | Total No.   | Per Population 100,000 |  |
| 1875..... | 20,040          | 512.7                  | 3,385       | 86.6                   | 16.8%  |
| 1924..... | 44,526*         | 483.5                  | 22,879      | 248.4                  | 51.3%  |

\* Estimated.

# CRIMINAL COURT REPORTS—PENNSYLVANIA PERSONS CHARGED WITH CRIME AND CONVICTIONS PER 100,000 POPULATION



It would appear from these figures that a larger percentage of convictions are secured by the criminal courts to-day than was the case fifty years ago. Moreover, a careful study of the record shows that since 1915 there has been a marked increase in the per cent of convictions, an increase for which we have been unable to account.

The fact that the citizen learns from his newspaper that more men (and

women) are convicted does not signify that there is more crime, but may indicate instead that a larger proportion of those charged with crime are brought to successful conviction than was the case fifty years ago as seems evident.

The records of the criminal courts show the most spectacular increase in convictions per 100,000 of population as follows:

## CRIMINAL COURTS OF PENNSYLVANIA

## Offenses for Which Convicted

(Per 100,000 population and percentage increase)

| Offenses Against               | 1875 | 1924  | Percentage—Increase<br>in Convictions |
|--------------------------------|------|-------|---------------------------------------|
| Public health and safety       | 1.1  | 23.3  | 2,018.2                               |
| Public policy                  | 7.   | 76.9  | 998.5                                 |
| Miscellaneous                  | 2.2  | 13.   | 490.9                                 |
| Administration of government   | 1.5  | 5.2   | 246.7                                 |
| Children and prisoners' family | 1.7  | 4.1   | 141.2                                 |
| Sex morality                   | 8.0  | 19.1  | 138.8                                 |
| Property (gainful)             | 32.5 | 71.1  | 118.8                                 |
| Sobriety and good order        | 6.9  | 8.3   | 20.3                                  |
| The person                     | 22.9 | 27.2  | 18.8                                  |
| Property (other)               | 2.8  | .2    | -92.8                                 |
| Total per 100,000              | 86.6 | 248.4 | +186.8                                |

In spite of the fact that commitments to our county prisons in 1924 show a marked decrease per 100,000 of the population over those of 1875, there is a significant trend which must be reckoned with in considering the fluctuation in the incidence of crime, for our

figures, as measured by commitments to the county prisons, show that we were in the trough of the wave in 1922 at the low figure of 64,585 commitments as contrasted with 85,471 for 1924. Whether this marked and rapid increase has been due to more active

TABLE 5—CRIMINAL COURTS OF PENNSYLVANIA

*Persons Charged with Crime, Convictions, Acquittals and Nolle Prosequies, 1875-1924*

| Year | Persons Charged<br>with Crime |                                   | Convictions |                                   | Acquittals |                                   | Nolle Prosequies |                                   |
|------|-------------------------------|-----------------------------------|-------------|-----------------------------------|------------|-----------------------------------|------------------|-----------------------------------|
|      | Number                        | Per<br>100,000<br>Popula-<br>tion | Number      | Per<br>100,000<br>Popula-<br>tion | Number     | Per<br>100,000<br>Popula-<br>tion | Number           | Per<br>100,000<br>Popula-<br>tion |
| 1875 | 20,040                        | 512.7                             | 3,385       | 86.6                              | 3,356      | 85.9                              | 1,442            | 36.9                              |
| 1880 | 17,308                        | 404.1                             | 3,039       | 71.0                              | 4,051      | 94.6                              | 1,092            | 25.5                              |
| 1885 | 20,188                        | 422.5                             | 3,713       | 77.7                              | 4,569      | 95.6                              | 1,607            | 33.6                              |
| 1890 | 19,656                        | 373.8                             | 3,496       | 66.5                              | 6,309      | 120.0                             | 827              | 15.7                              |
| 1895 | 26,118                        | 451.2                             | 4,417       | 76.3                              | 7,351      | 127.0                             | 1,071            | 18.5                              |
| 1900 | 23,528                        | 373.3                             | 4,183       | 66.4                              | 9,522      | 151.1                             | 1,008            | 16.0                              |
| 1905 | 31,059                        | 443.5                             | 4,886       | 69.8                              | 9,831      | 140.4                             | 1,329            | 19.0                              |
| 1910 | 27,313                        | 356.2                             | 5,069       | 66.1                              | 10,509     | 137.1                             | 2,695            | 35.2                              |
| 1915 | 31,449                        | 382.1                             | 15,644      | 190.1                             | 9,008      | 109.4                             | 3,579            | 43.5                              |
| 1920 | 31,190                        | 357.7                             | 12,181      | 139.7                             | 7,785      | 89.3                              | 3,981            | 45.7                              |
| 1924 | 44,526*                       | 483.5                             | 22,879      | 248.4                             | 10,651     | 115.7                             | 4,247            | 46.1                              |

\* Estimated.

TABLE 6—CRIMINAL COURTS, PENNSYLVANIA

*Offenses for Which Convicted, 1875-1924*

| Offense                                       | Convictions per 100,000 Population |      |      |      |      |      |      |      |       |       |       |       |
|---|------------------------------------|------|------|------|------|------|------|------|-------|-------|-------|-------|
|   | 1875                               | 1880 | 1885 | 1890 | 1895 | 1900 | 1905 | 1910 | 1915  | 1920* | 1923  | 1924  |
| All offenses.....                             | 86.6                               | 71.0 | 77.7 | 66.6 | 76.3 | 66.4 | 69.8 | 66.1 | 189.5 | ....  | 205.2 | 248.4 |
| Against the person.....                       | 22.9                               | 19.0 | 22.2 | 20.8 | 22.0 | 18.2 | 17.7 | 17.7 | 35.5  | ....  | 23.9  | 27.2  |
| Against property (gainful).....               | 32.5                               | 31.0 | 29.4 | 22.9 | 26.8 | 21.3 | 22.7 | 19.6 | 83.6  | ....  | 62.0  | 71.1  |
| Against property (other).....                 | 2.8                                | 2.2  | .3   | 2.0  | 2.4  | 1.6  | 1.2  | 1.7  | 3.7   | ....  | .2    | .2    |
| Against sex morality.....                     | 8.0                                | 6.9  | 7.1  | 6.2  | 7.1  | 6.5  | 6.8  | 5.5  | 20.0  | ....  | 17.3  | 19.1  |
| Against the administration of government..... | 1.5                                | 1.5  | 1.5  | 1.6  | 1.7  | 1.7  | 1.2  | 1.7  | 5.9   | ....  | 4.8   | 5.2   |
| Against public health and safety.....         | 1.1                                | 1.0  | 1.9  | 1.7  | 1.7  | 1.8  | 1.5  | 1.8  | 7.0   | ....  | 22.1  | 23.3  |
| Against sobriety and good order.....          | 6.9                                | 3.5  | 6.3  | 3.5  | 4.6  | 5.4  | 4.4  | 3.1  | 3.3   | ....  | 8.2   | 8.3   |
| Against public policy.....                    | 7.0                                | 2.4  | 4.3  | 4.5  | 5.0  | 3.5  | 4.5  | 2.1  | 12.1  | ....  | 50.1  | 76.9  |
| Against children and prisoners' family.....   | 1.7                                | 1.5  | 2.4  | 2.4  | 3.3  | 3.7  | 5.7  | 8.3  | 12.7  | ....  | 3.4   | 4.1   |
| Miscellaneous.....                            | 2.2                                | 2.0  | 2.3  | 1.0  | 1.7  | 2.7  | 4.1  | 4.6  | 5.7   | ....  | 13.2  | 13.0  |

\* State report not available

enforcement of liquor laws in this period I cannot say, but the fact remains that within a two-year period we have witnessed in Pennsylvania an increase of 32.3 per cent in convictions.

#### GAGING LAW VIOLATION AND ENFORCEMENT

The activities of the police force, particularly in our large cities, provide a gage of law violation and also a gage of the effort to enforce law. A glance

at the records of Pittsburgh and Philadelphia must serve for purposes of illustration.

The excess of arrests in Pittsburgh over those in Philadelphia will become apparent in connection with arrests for drunkenness.

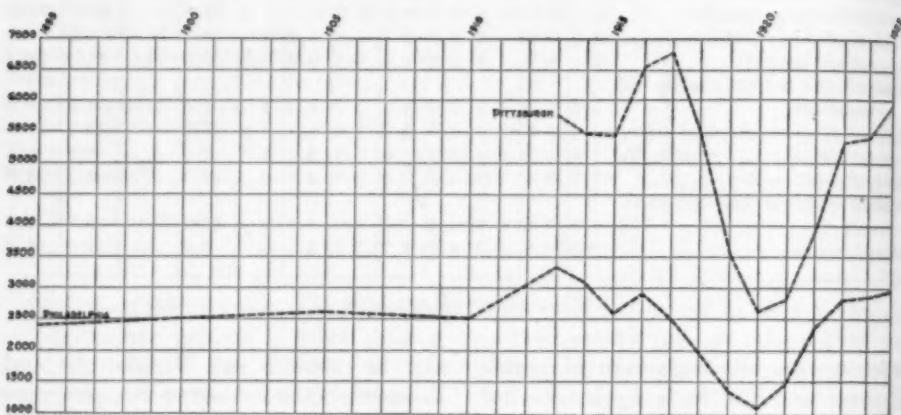
Such police activity resulting in an enormous increase of arrests and newspaper comment must inevitably create a reaction in the public mind, but even so, when we reduce the figures to terms

#### TOTAL ARRESTS FOR ALL OFFENSES

| Year      | Philadelphia |                        | Pittsburgh |                        |
|-----------|--------------|------------------------|------------|------------------------|
|           | Number       | Per 100,000 Population | Number     | Per 100,000 Population |
| 1920..... | 73,015       | 4,003.5                | 36,583     | 6,218.0                |
| 1921..... | 83,136       | 4,454.8                | 42,068     | 6,982.8                |
| 1922..... | 99,601       | 5,257.4                | 49,193     | 8,092.3                |
| 1923..... | 115,399      | 6,001.6                | 60,464     | 9,746.5                |
| 1924..... | 130,759      | 6,701.9                | 63,450*    | 10,135.5               |
| 1925..... | 137,263      | 6,934.7                | 63,507*    | 10,055.5               |
|           |              | +73%                   |            | +77%                   |

\*These figures do not include arrests for traffic violations which in each year exceeded 40,000.

# ARRESTS FOR DRUNKENNESS AND DISORDERLY CONDUCT PHILADELPHIA AND PITTSBURGH PER 100,000 POPULATION



per 100,000, we find that we are not at the crest of the wave, for the years preceding 1920 show arrests greatly in excess of the figures for that year.

TABLE 7—PHILADELPHIA  
Total Arrests for All Offenses  
1900-1919 (Five-Year Periods) and Yearly  
Thereafter

| Period         | Number  | Per 100,000<br>Population |
|----------------|---------|---------------------------|
| 1900-1904..... | 341,047 | 5,066.6                   |
| 1905-1909..... | 421,474 | 5,716.2                   |
| 1910-1914..... | 469,960 | 5,845.5                   |
| 1915-1919..... | 452,718 | 5,181.9                   |
| 1916.....      | 95,783  | 5,562.9                   |
| 1917.....      | 96,041  | 5,496.5                   |
| 1918.....      | 94,039  | 5,304.6                   |
| 1919.....      | 75,618  | 4,205.0                   |
| 1920.....      | 73,015  | 4,003.5                   |
| 1921.....      | 83,136  | 4,454.8                   |
| 1922.....      | 99,601  | 5,257.4                   |
| 1923.....      | 115,399 | 6,001.6                   |
| 1924.....      | 130,759 | 6,701.9                   |
| 1925.....      | 137,263 | 6,934.7                   |

TABLE 8—PITTSBURGH  
Total Arrests for All Offenses, 1920-1924

| Year      | Number  | Per 100,000<br>Population |
|-----------|---------|---------------------------|
| 1920..... | 36,583  | 6,218.0                   |
| 1921..... | 42,068  | 6,982.8                   |
| 1922..... | 49,193  | 8,092.3                   |
| 1923..... | 60,464  | 9,746.5                   |
| 1924..... | 63,450* | 10,135.5                  |
| 1925..... | 63,507* | 10,055.5                  |

\* There were additional 41,956 arrests for "other traffic violations" in 1923 and 48,650 in 1925.

Take for example arrests for drunkenness and disorderly conduct for Pittsburgh and Philadelphia. These arrests for drunkenness show that in 1913 Philadelphia arrests amounted to 3346 per 100,000 of the population while in Pittsburgh the rate was 5780. In both cities the low figures were in 1920, when for a brief space prohibition was

taken seriously and arrests for drunkenness in Philadelphia fell to 1120 per 100,000 while in Pittsburgh the rate was 2612.

TABLE 9—PHILADELPHIA

*Drunkenness as Factor in Arrests, 1895-1925*

| Year      | Charges on Which Arrests Were Made |                      |              |                                     |                     | Total Arrests for Drunkenness, etc., per 100,000 Population |
|-----------|------------------------------------|----------------------|--------------|-------------------------------------|---------------------|---|
|           | Total                              | Drunkards (Habitual) | Intoxication | Intoxication and Disorderly Conduct | Intoxicated Drivers |   |
| 1895..... | 28,140                             | 1,063                | 23,509       | 3,568                               | ...                 | 2,400.2   |
| 1905..... | 37,409                             | 381                  | 28,055       | 8,973                               | ...                 | 2,625.0   |
| 1910..... | 39,024                             | 568                  | 28,664       | 9,792                               | ...                 | 2,519.3   |
| 1913..... | 54,792                             | 760                  | 39,309       | 14,723                              | ...                 | 3,346.3   |
| 1914..... | 51,489                             | 702                  | 36,481       | 14,306                              | ...                 | 3,089.0   |
| 1915..... | 44,021                             | 633                  | 33,186       | 10,202                              | ...                 | 2,595.1   |
| 1916..... | 50,318                             | 712                  | 39,182       | 10,424                              | ...                 | 2,922.4   |
| 1917..... | 43,602                             | 562                  | 33,584       | 9,456                               | ...                 | 2,495.4   |
| 1918..... | 34,858                             | 203                  | 25,981       | 8,674                               | ...                 | 1,966.3   |
| 1919..... | 23,740                             | 127                  | 16,819       | 6,794                               | ...                 | 1,320.1   |
| 1920..... | 20,443                             | 33                   | 14,313       | 6,097                               | ...                 | 1,120.9   |
| 1921..... | 27,609                             | 33                   | 21,850       | 5,232                               | 494                 | 1,479.4   |
| 1922..... | 44,746                             | 50                   | 36,299       | 7,925                               | 472                 | 2,361.9   |
| 1923..... | 54,124                             | 177                  | 45,226       | 8,070                               | 645                 | 2,814.9   |
| 1924..... | 55,766                             | 874                  | 47,805       | 6,404                               | 683                 | 2,858.2   |
| 1925..... | 58,617                             | 814                  | 51,461       | 5,522                               | 820                 | 2,961.4   |

TABLE 10—PITTSBURGH

*Arrests for Drunkenness and Disorderly Conduct, 1913-1925*

| Year      | Drunkenness and Disorderly Conduct |                        | Arrests for |                    |
|-----------|------------------------------------|------------------------|-------------|--------------------|
|           | Number of Arrests                  | Per 100,000 Population | Drunkenness | Disorderly Conduct |
| 1913..... | 31,872                             | 5,780.4                | 21,970      | 9,902              |
| 1914..... | 30,604                             | 5,492.5                | 20,567      | 10,037             |
| 1915..... | 30,740                             | 5,459.8                | 21,994      | 8,746              |
| 1916..... | 37,221                             | 6,551.9                | 27,376      | 9,845              |
| 1917..... | 38,887                             | 6,784.7                | 28,935      | 9,952              |
| 1918..... | 31,916                             | 5,519.7                | 23,556      | 8,360              |
| 1919..... | 20,926                             | 3,587.6                | 14,304      | 6,622              |
| 1920..... | 13,373                             | 2,612.9                | 9,577       | 5,796              |
| 1921..... | 16,990                             | 2,820.1                | 10,371      | 6,619              |
| 1922..... | 23,787                             | 3,913.0                | 16,556      | 7,231              |
| 1923..... | 33,121                             | 5,338.9                | 24,651      | 8,470              |
| 1924..... | 33,972                             | 5,426.7                | 25,401      | 8,571              |
| 1925..... | 37,452                             | 5,930.0                | 28,669      | 8,783              |



In both cities the tide is rising with the Philadelphia rate 2961 and the Pittsburgh rate 5930 higher than it ever has been, and just 100 per cent higher than in Philadelphia per 100,000 population.

There is an ominous rise in arrests for all causes coincident with the increase in commitments to prison, although neither has risen to the old levels.

The automobile has added its spectacular element to causes for arrest in Philadelphia by approximately 10 per cent. Assault and battery by the good old-fashioned human fist lacks some of the elements which make the same offense by automobile a news story and more than 8800 such arrests were made in 1925 out of a total of 137,263.

The activities of the police in relation to crime are nullified to a great degree by magistrates, if the figures of Pittsburgh are an index, for out of approximately 63,000 arrests more

than 28,200 (or 45 per cent) were discharged in 1925 and that with a minimum degree of publicity. Out of 27,248 arrests in Philadelphia for traffic violations only 3815 (or 14 per cent) were fined, held for court or sent to prison in the same year.

TABLE 12—PITTSBURGH  
*Disposition of 62,886 Arrests by Pittsburgh Police, 1925*

| Disposition                 | Number | Per Cent |
|-----------------------------|--------|----------|
| Discharged . . . . .        | 28,279 | 45.0     |
| Fines paid . . . . .        | 13,922 | 22.1     |
| Jail . . . . .              | 9,176  | 14.6     |
| Workhouse . . . . .         | 2,042  | 3.2      |
| Held over . . . . .         | 3,449  | 5.5      |
| Court . . . . .             | 1,584  | 2.5      |
| Forfeit . . . . .           | 1,154  | 1.8      |
| Juvenile court . . . . .    | 436    | .7       |
| Charities . . . . .         | 296    | .5       |
| Coroner . . . . .           | 126    | .2       |
| Other authorities . . . . . | 2,422  | 3.9      |
| Total . . . . .             | 62,886 | 100.0    |

TABLE 11—PHILADELPHIA  
*The Automobile as Factor in Arrests, 1925*

| Charges on Which Arrests Were Made          | Number | Per Cent |
|---|--------|----------|
| Assault and battery by automobile . . . . . | 8,896  | 66.6     |
| Automobile, speeding . . . . .              | 318    | 2.4      |
| " driving intoxicated . . . . .             | 820    | 6.1      |
| " no lights . . . . .                       | 74     | .5       |
| " false registration . . . . .              | 6      | *        |
| " misuse of tags . . . . .                  | 223    | 1.7      |
| " without license . . . . .                 | 588    | 4.4      |
| " without owner's license . . . . .         | 795    | 6.0      |
| " without driver's license . . . . .        | 538    | 4.0      |
| " deface license . . . . .                  | 21     | .2       |
| " license obstructed . . . . .              | 6      | *        |
| " with cutout open . . . . .                | 14     | .1       |
| " reckless driving . . . . .                | 236    | 1.8      |
| " maximum weight not registered . . . . .   | 1      | *        |
| " trolley car, passing standing . . . . .   | 241    | 1.8      |
| " manslaughter, by . . . . .                | 205    | 1.5      |
| " parking . . . . .                         | 236    | 1.8      |
| Traffic Laws, violation of . . . . .        | 143    | 1.1      |
| Total . . . . .                             | 13,361 | 100.0    |

\* Less than one-tenth of one per cent.

## NEW OFFENDERS OR CHRONIC REPEATERS?

And this brings us to another question in relation to the alleged "crime wave," namely, is our impression of an increasing number of crimes based upon an ever increasing number of persons who commit criminal acts or are our statistics the accumulation of repeated offenses by a relatively small part of the population?

Glueck, quoting Massachusetts statistics for 1922, states that out of 9219 inmates in the jails, 59 per cent had served on an average six previous sentences.

Figures from our Western Penitentiary show that out of 1916 cases studied, 597 (or 31.1 per cent) admitted that they had previously been convicted.

In 1923, out of a total of 10,818 jail commitments in Pennsylvania, 4423 (or 40.9 per cent) admitted previous commitments with 15 per cent admitting ten or more prior commitments, while the Pennsylvania Industrial Reformatory shows that 35 per cent of 2143 boys, there committed in the past five years, have been arrested previously one or more times.

The Eastern Penitentiary admissions since 1913 show that 32 per cent have

previously served time in reformatories; while of 1920 in the institution on July 20, 1925, there were 298 (or 22.6 per cent) who had been reformatory inmates (not including those who had served time in other institutions).

There can be no doubt from these figures that in part, and probably not less than 33 per cent of our criminal statistics and crime news is made up of the tabulations and chronicles of the activities of chronic repeaters. Instead of an engulfing wave, we shall more accurately visualize the situation if we liken it to the mechanically driven fountain, the waters of which are ejected only to fall back into the basin to be repumped into the air once more.

## COMMITMENTS BY RACE AND NATIVITY

Is the impression correct that a large part of the problem of crime is attributable to our foreign-born and Negro population?

The census figures for the United States for 1923 show that out of 166,356 commitments (January 1 to June 30), 54.4 per cent were native whites, 18.7 per cent were foreign-born whites, 23.3 per cent were Negroes with the remaining 3.6 per cent Indian, Chinese and Japanese or unknown.

COMMITMENTS IN THE UNITED STATES DURING 1923

| By Color or Race and Nativity | Number  | Per 100,000 Population of Same Color, Race and Nativity* |
|-------------------------------|---------|--|
| All Classes.....              | 357,493 | 325.1  |
| Native whites.....            | 194,179 | 239.4  |
| Foreign-born whites.....      | 66,990  | 488.5  |
| Negro.....                    | 83,399  | 797.1†   |
| All other.....                | 12,925  | 666.9 (approximately)                                    |

\* Ratios for "All Classes," 1923, based upon estimated population Jan. 1, 1923; other ratios based upon enumerated Jan. 1, 1920.

† If the census figures in the southern states are as inaccurate as they were for Pennsylvania this figure does the Negro an injustice.



We, therefore, are not in a position to disclaim responsibility for a considerable proportion of recorded crime as a "home grown product," for we must include the Negro with our native white as a product of our American civilization.

Commitments by race and nativity considered in relation to the total number of national or racial groups in the United States in 1923 show that the native-born white produces a smaller number of criminals per 100,000 of his own group than does any other; figures for a half century ago are not now available.

No doubt can remain that the impression is correct that the native white population produces a smaller relative number of criminals than do the other groups.

#### THE YOUTHFUL CRIMINAL

Is the youth of the present day criminal an actual factor in our impressions as to crime? The census figures show that for the United States for the first six months of 1923, 51.6 per cent of those committed were between 18 and 34 years of age and the prison population on January 1, 1923, indicated 64.7 per cent to be in that age group. Comparing the percentage distribution of commitments by age for 1910 and 1923, we find an increase of 3.7 per cent in the group under 34 years of age.

This relative increase in the most irresponsible, "devil-may-care" group is bound to give us more "play to the galleries" with revolvers, autos and the other modern tools of the trade which always result in publicity.

Not many months ago, a lifetermer, who had served more than eighteen years in our Eastern Penitentiary, lamented to me the irresponsibility of our present day youthful criminal and stated that it was impos-

sible to do anything with him in the way of correction; and he sighed for the good old days when men were more responsible!

There are to-day more than 300 men under twenty-one years of age in the Eastern Penitentiary out of a total population of approximately 1400. The Western Penitentiary has 194 out of 1916 records studied, and the Pennsylvania Industrial Reformatory 661 out of 814 studied under twenty-one years of age; that is 1155 out of 4130 or 27.9 per cent.

Mental disease does not appear to add to the incidence of crime to an increasing extent if admissions to institutions for the criminal insane in New York are to be taken as a guide, for such admissions constituted only 2.7 per cent of all admissions in 1897 and 2.3 per cent in 1923.

If, as appears evident from the figures, there actually has been a decrease in crime in proportion to the population as measured by commitments per 100,000; and if as appears evident our criminal courts do actually secure a larger number of convictions in proportion to crimes charged, how are we to account for the persistent belief that we are in the midst of a "crime wave?"

There are those who attribute this state of the public mind to the extended space given to the discussion of crime in the press.

#### THE PRESS AND CRIME REPORTING

We have made an extended study of the handling of crime news by the press both as to extent and as to technique in 1876 and 1926 with interesting results. As a matter of fact, the space devoted to crime in two old Philadelphia newspapers (the *Inquirer* and the *Public Ledger*) is less in proportion to their total reading matter than was the case fifty years ago.

SPACE DEVOTED TO CRIME NEWS IN TWO PHILADELPHIA NEWSPAPERS IN TERMS OF PER CENT OF TOTAL READING MATTER

| Newspapers                  | Reading Matter Devoted to Crime |       |
|-----------------------------|---------------------------------|-------|
|                             | 1876                            | 1926  |
| <i>The Public Ledger</i> .. | 8.0%                            | 4.73% |
| <i>The Inquirer</i> .....   | 6.8%                            | 4.37% |

Not only was more space given to crime in the old editions, but news recognition to a larger number of crime happenings by count was given in their four or eight pages as contrasted with the modern mammoth editions.

Though they told about more crimes, the so-called "conservative" treatment of news was the rule. The small headings were merely labels. What modern editors call "action" in headlines and appropriate distinction of articles by their heads were lacking. Sensational news events were recorded in the mass along with the unsensational under the little labels, and the newspaper buyer who wished to see the report of any particular event frequently had to organize himself into a research unit to find it.

One of the daily newspapers published continuously for more than fifty years is the Philadelphia *Inquirer*. A half century ago the *Inquirer* was an eight-page paper with six columns to the page and the columns eighteen inches long. The daily average of space for reading matter over several days of the first week of January, 1876, was 30.6 columns. Of the reading matter, the average given to criminal matters directly or indirectly, as through court reports, was 2.1 columns or 6.8 per cent.

The week day editions of the *Inquirer* now run about thirty-two pages of eight columns each, the columns

twenty-two inches long. Averaging the amount of reading matter for several days of January, 1926, we find it 119 columns. The average of space for crime, including that space taken by pictures of persons or other illustrations connected with criminal happenings, is about 5.2 columns, or 4.37 per cent.

Crime publication by the *Inquirer* of a half century ago, the totals of available space at the two periods taken into consideration, was more than one-third heavier than it is to-day. And it should be borne in mind that the space occupied by illustrations is counted in the computation for 1926 and display heads are also measured. In 1876 there were no pictures, but only straight reading matter and the small headlines.

The *Inquirer* of the Centennial year did have three display heads on the first page daily, but not of a kind that would satisfy now. They were little more than bunched collections of labels for somewhat related articles strung along beneath. The top of one big head on January 4 read "News from Abroad," another "The National Capitol," and the third carried a column of local politics.

There was no uniformity of typing in the display heads. The printers used any kind of type that would fill out a line. Admittedly all were unsensational. Also they failed to give the news to the reader at a glance. In short, they were poor heads.

Under the heading "The Green Conspiracy Case," a criminal matter was featured. The news of it appeared well down the column, under a separate single line heading "Case of John Green," just as much a label as the larger "Green" line that was a part of the main head. Green was accused of impersonating another man in giving bail. The three-inch article gave no concise explanation of the case. If

Green was a notable, that fact was not made clear. Lawyer's motions received mention and postponement of the proceedings was recorded. Modern newspaper treatment would have made the Green case report more enlightening and interesting or would have dropped it.

Under a one-line heading in capitals, "The Morning's Intelligence," were several items concerning crimes mingled with notes of other kinds. A claimant at St. Albans, Vt., was not Charley Ross, the kidnapped boy; a man killed his wife with a butcher knife at Cambridgeport, Mass; three men were arrested in Buffalo for misappropriation of money paid in taxes; a Brooklyn man was mortally shot by two highwaymen.

Two groups of classified notes about offenses against the laws, under the headings "At the Central" (police station) and "Crime Work of the Mayor's Office," had place on an inside page. Listing the subjects, we find:

- Hold-up and robbery.
- Assault and battery and attempted robbery.
- Beating of man on street by two assailants.
- Attempt to rob store.
- Picking pockets.
- Finding of bucket of fine cut tobacco supposed to have been stolen.
- Theft of laprobe.
- Thefts of three coats.
- Thefts of lead pipe.
- Burglary, \$60.
- Assault and battery.
- Burglary, \$15.

"The Coroner's Business" was another heading to carry mention of criminal affairs.

A new crop of crimes, serious and petty, turned up every day, then as now, although no one could ascribe an increase in their number to the in-

fluence of "sensational newspaper reporting." Doubtless, criminals were doing such things before newspapers were invented.

The same old edition of the *Inquirer* contained a fifteen-inch article on the progress of the trial of one Fletcher for the murder of an acquaintance Hanley, under the heading "Court of Oyer and Terminer—Judges Biddle and Penrose." It was a mere record of court proceedings and testimony, with no part featured. The prosecution tried to prove Fletcher sober at the time of the shooting and the defense tried to prove him intoxicated. Some days later, Fletcher was convicted in the first degree.

The *Inquirer* that day had two inches less than three columns of crime news or about 9 per cent in a total of thirty-two columns of reading matter.

The *Public Ledger* is another Philadelphia daily which dates back more than fifty years. In the first week of January, 1876, it had four pages of eight columns each, twenty-five inches long. The edition of January 3 contained fourteen and one-half columns of reading matter, 8 per cent of which was filled with news pertaining to crime.

To-day, the *Public Ledger* presents twenty-four to thirty pages a day, eight columns to a page, the columns twenty-one inches long. The *Ledger's* average space for all reading matter over several days of January, this year, was 112.7 columns, and the average allowed for crime matters was 5.33 columns, or 4.73 per cent. The *Ledger's* 4.73 per cent and the *Inquirer's* percentage of 4.37 for crime in total reading matter in issues of the same days, it will be noticed, are not far apart.

The *Ledger* of January 3, 1876, on its first page printed forty-one short

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notes of news from various parts of the country under the general heading of "The Latest News," of which seventeen related to crime. "Police Intelligence" carried ten more crime items, these from local field. Seven additional were classified under "Local Affairs" with brief identifying captions set in small capitals and run in with the body of the type, a total of thirty-four pieces of crime news.

No news report more remote from the sensational in style of presentation could be imagined, a style which the public would not tolerate to-day.

The reduced percentage of their space that newspapers (with some exceptions) now give to crime matters would be even less had not new classes of offenders—automobile bandits and bootleggers—come to the fore in recent years with spectacular performances. The doings of these gentry are of daily report in the press, largely because the picturesque enters into the news they produce.

The evident restraint in the space given to crime on the part of the best newspapers of to-day (and they are largely in the majority) as contrasted with a half century ago, is offset to some degree by the "yellow journals" of some of our larger cities, but it is reasonable to suppose that the relative total space given to crime is not in excess of that of former days.

It is, therefore, a matter of journalistic technique, as contrasted with inches of space given to crime in the newspapers, which is influencing our mental attitude toward crime. This technique is but one element in the time saving devices of this day as contrasted with fifty years ago; it is on a par with our elevators, moving stairways, subways, automobiles, aeroplanes, telephones, etc.

We want the news whatever it may be; we want the gist of it at a glance

and the remainder at our leisure, if we are interested; this the modern newspaper technique with its big headlines and pictures gives us.

This changed technique has been accompanied by an enormous increase of daily newspaper circulation in the last fifty years, as witness the increase in circulation of city dailies from 28,700,000 in 1914 contrasted with 33,700,000 in 1921; the facilities for news gathering and news distribution have brought to us crime news from remote regions, accompanied by headlines which make us feel that the event has occurred just around the corner.

The telegraph, telephone and radio have brought us in touch with the crime of the world as well as with all other world affairs; the movie adds its touch to the chronicle of events; psychology and psychiatry have opened up an entirely new field as a basis for the discussion of crime, and, in consequence, one human being finds himself impinged upon through eye and ear by a thousand startling events where 100 would have been his measure half a century ago.

#### FIFTY YEARS AGO

That our present state of mind in regard to the prevalence of crime had its counterpart fifty years ago is evidenced by the following quotation taken from a paper read at the Fifth Annual Meeting of the Conference of Charities in 1878; says the speaker:

Statistics show that crime is constantly increasing, that prisons of all kinds are everywhere crowded, and that nearly one-fourth of their inmates are re-committals.

Since the Civil War, crime has everywhere rapidly increased, and in some states it is estimated that it has doubled.

More prolific than any other in the production of crime is the vice of intemperance. This operates in so many ways that it is impossible to trace out all its pernicious effects,



In that same year another speaker stated:

Crime has increased with our growing population in all of our states. Its progress is similar to all other lines of development. Its hydra head cannot be severed by a mere mandate of law.

#### SUMMARY

In brief, facts and figures covering the period from 1875 to 1926 indicate that:

(1) For the United States as a whole and for Pennsylvania there has been a decrease in crime in proportion to the population of 37.7 per cent in the one and 39 per cent in the other.

(2) The actual recorded commitments in Pennsylvania have increased 81.2 per cent while the population of the state has increased 118 per cent.

(3) The spectacular crimes against persons in Pennsylvania have increased 48.7 per cent while crimes against property have decreased 12.5 per cent.

(4) Penitentiary and reformatory commitments have increased 44 per cent while jail and workhouses offenses have decreased 23 per cent.

(5) Convictions in the criminal courts of Pennsylvania in relation to charges made have increased from 16.8 per cent in 1875 to 51.3 per cent in 1924.

(6) Arrests for drunkenness in Philadelphia and Pittsburgh dropped enormously from the year 1913 to 1920 and from that low point arrests have increased 164 per cent per 100,000 in Philadelphia and 128 per cent in Pittsburgh. (Pittsburgh has been throughout that period 100 per cent "wetter" than Philadelphia).

(7) Crime statistics cover the activities of a smaller number of persons than the actual figures indicate, for the group of recidivists appear to constitute not less than 33 per cent of all those who fall into the hands of the law.

(8) There is a steady increase in the proportion of young people who are committed for crime. The age group between 18-34 constituted 51.6 per cent of the commitments in the first six months of 1923 in the United States. More than 27 per cent of those in our penitentiaries and reformatories are under twenty-one years of age.

(9) The native-born whites show a smaller proportionate number of commitments than is shown by any other nationality or race.

(10) The space devoted to crime news in the standard, reputable newspapers of the country is proportionally less than it was fifty years ago.

(11) The modern journalistic technique, combined with more spectacular crimes; committed by much younger persons; gathered more completely from the whole world by the great news agencies; multiplied by the increased density of population of necessity overwhelms the individual citizen with a sense of deluge by a crime wave.

(12) The thinkers and writers of 1875 were then impressed by the increased prevalence of crime as they are to-day.

#### APPENDIX CLASSIFICATION OF OFFENSES USED IN THIS PAPER

##### *Offense*

##### Against the person

Assault

Homicide, grave

Homicide, lesser

All others

Attempted suicide

Threat to do bodily harm

Kidnapping

All others

##### Against property, gainful

Burglary

Embezzlement

Forgery

Fraud

Having stolen property

Larceny

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- Robbery
- Violating revenue laws
- All others
  - Counterfeiting
  - Extortion
  - All others
- Two or more of this class
- Against property, other
  - Arson
  - Malicious mischief
  - Using another's property
  - All others
- Against sex morality
  - Adultery
  - Bigamy and polygamy
  - Fornication
  - Keeping house of ill fame
  - Obscenity
  - Prostitution
  - Rape
  - All others
    - Bastardy
    - Crime against nature
    - Securing and transporting women for immoral purposes
    - All others
- Against the administration of government
  - Contempt of court
  - All others
    - Bribery
    - Escaping custody
    - Falsely impersonating
    - Malfeasance in office
    - Obstructing justice
    - Perjury
    - Resisting officer
    - Violating election laws
    - Violating immigration laws
    - All others
- Against public health and safety
  - Carrying concealed weapons
  - Nuisance
  - Violating city ordinances
  - Violating drug laws
  - Violating traffic laws
- All others
  - Illegal practice of profession
  - Injuries to common carriers
  - Unlawful discharge of weapons
  - Violating food laws
  - All others
- Against sobriety and order
  - Disorderly conduct
  - Drug addiction
  - Drunkenness
  - Vagrancy
  - All others
- Against public policy
  - Criminal anarchism or syndicalism
  - Gambling
  - Profanity
  - Violating liquor laws
  - All others
    - Cruelty to animals
    - Enticing servant
    - Nonobservance of Sunday
    - Violating contract
    - Violating fish and game laws
    - Federal espionage law
    - All others
- Against children and prisoners' family
  - Contributing to delinquency
  - Nonsupport or neglect of family
  - All others
    - Cruelty to wife or child
    - Violating education laws
    - All others
- Miscellaneous and unknown
  - Delinquency, etc.
  - Quarantine (venereal)
  - Violating parole
  - Violating U. S. postal laws, etc.
  - All others
    - Ill-defined offenses
- Offenses of two or more classes
  - Unclassified offenses
  - Habitual criminal
  - Violating labor law
  - Unknown

## The Increase in Murder

By FREDERICK L. HOFFMAN, LL.D.,

Consulting Statistician, Prudential Life Insurance Company of America

**C**RIME in the broad sense includes every violation of a public law or an act in conflict with established authority. Crimes are usually differentiated into crimes against the person, against property or otherwise. The present discussion is chiefly concerned with crimes against the person, particularly crimes which terminate in homicide. A survey of the whole field of criminal activity and its present rate trend towards better or worse would be an impossible task in view of the decidedly chaotic nature of the data available. It may be said at the outset that the fundamental difficulty of the crime situation in America is the absence of Federal judicial statistics, which alone can clearly establish the true state of facts and review the situation in point of time. Crimes against the person usually comprise (1) murder, (2) manslaughter, (3) attempts to murder or kill, (4) mayhem, (5) rape, (6) robbery, (7) kidnapping, (8) false imprisonment, (9) abduction, (10) assault and battery, (11) abortion, (12) cruelty to children.

Of these, as I have said before, I shall give major consideration on the present occasion to murder, manslaughter and attempts to murder or kill, including holdups, assaults, etc.

As regards murder, the subject may be viewed from two distinct points of view. The first concerns the victim, irrespective of whether the perpetrator of the crime is apprehended and punished. The second concerns the offender, his apprehension, indictment, trial, conviction and the penalty

imposed. Here again we are largely deficient in precise information as to the facts for this country as a whole and its separate parts, in view of conflicting statutes and variations in legal procedures.

As regards the victim it, of course, is immaterial whether murder was committed with intent or whether extenuating circumstances justify a verdict of manslaughter or murder in the second degree or possibly of justifiable homicide. From a public point of view, the sole question involved is one of life and death. I have, therefore, for years insisted that our death records of homicides are a more trustworthy index of the murder trend than police statistics or other judicial statistics of murder, differentiating the various degree of homicides and crimes.

It is assumed for the present purpose that homicide deaths are accurately and completely recorded. There are unquestionably deficiencies in registration and tabulation, but it is a safe inference that these defects would not materially impair conclusions as regards the trend of the murder rate during the last two decades. Earlier statistics must be viewed with more apprehension and for the present purpose may be disregarded. Since 1912 I have annually tabulated the homicide mortality of some thirty or more American cities and the death rate for this group, which now represents approximately one-fourth of the entire population, shows a steady increase from 5.1 per 100,000 in 1900 to 11.0 in 1925. Here, then, is convincing evidence that mur-



der is increasing in at least all of the principal cities for which the information for at least twenty years is available, but still more comprehensive data are available for the entire Registration Area which, however, has been expanding during recent years and which now comprises nearly 90 per cent of the total American population. According to a report of the Division of Vital Statistics of the U. S. Census, the homicide mortality rate has increased from 2.1 per 100,000 in 1900 to 7.0 per 100,000 in 1915 and to 8.5 per 100,000 in 1924.

On different occasions I have presented international data to emphasize the conclusion that the American murder record is the worst among modern, civilized nations and, in very truth, the highest for any large section of the world.

#### CRIMES AGAINST PROPERTY

It is my intention to touch only very briefly upon crimes against property. Here we have at least one definite source of information which is reasonably conclusive and that is the statistics of burglary insurance companies which have been compiled by the New York Insurance Department for a long period of years. Limiting myself to the last decade, it may be pointed out that the premiums paid on account of burglary insurance in 1914 amounted to \$1,377,000 and in 1924 to \$26,513,000, a really extraordinary increase which justifies the assumption that the risk of burglary is now materially greater than at any time during the last decade. This conclusion is supported by the statistics of losses which increased from \$508,000 in 1914 to \$11,812,000 in 1924.

Of collateral importance are the statistics of fidelity and surety insurance companies which show an increase in premium income from \$4,755,000 in

1914 to \$78,598,000 in 1924, and an increase in losses of \$1,433,000 in 1914 to \$28,468,000 in 1924. No analysis appears to have been made of these losses or this experience with reference to the larger problems of public concern. Quite recently the president of one of the leading fire insurance companies has come forward with a strong indictment of the increasing practice of arson to which he attributes the really astonishing proportion of about 40 per cent of the annual fire losses. As far as can be judged, the practice of arson is increasing and becoming a decidedly greater menace not only to property but also to life in that many lives are sacrificed by fires set on purpose.

#### HOMICIDE REPORTS

My own interest in criminology has been chiefly concerned with the reports of deaths from homicide as returned by local boards of health and the Division of Vital Statistics of the Bureau of the Census. For many years I have annually called attention to the trend of the homicide death rate which has increased from 5.1 per 100,000 in 1900 to 11.0 per 100,000 for 1925. The rate, therefore, has practically doubled during this period of twenty-four years and while limited to American cities, it is practically representative for the country as a whole. It would serve no useful purpose to enlarge upon the controversial aspects which affect this phase of the discussion further than to say that I have carefully considered every claim which could properly be brought against the use of murder statistics for such a purpose, but I have arrived at the conclusion that at the present time it is the most convincing evidence of a substantial increase in the most serious forms of crime throughout the nation.

For 1925 I have thus far collected

statistics for 77 cities which, without reference to the population concerned, show an increase in the actual number of homicides reported from 3096 in 1924 to 3208 in 1925. By way of further illustration, I may point out that homicides in Chicago have increased from 509 in 1924 to 563 in 1925 or during the course of a single year. Homicides in Detroit have increased from 211 to 243. Homicides in the city of Cleveland have increased from 97 to 127. Homicides in New Orleans have increased from 135 to 154. Homicides in Philadelphia have increased from 149 to 192, yet in Philadelphia we have had the most spectacular effort at law enforcement on record. The homicide roll in its last analysis, however, is a final test of real efficiency in local law enforcement. In the city of Cleveland, a crimes' commission has been at work for several years, but its efforts have not been productive of a reduction in the rate of homicidal frequency. The rate, I may add, has increased from 10.7 for 1924 to 13.8 for 1925. In Chicago, likewise, a crimes' commission has been at work for a number of years but, as pointed out previously, there have been 63 more homicides during 1925 than were reported during the previous year when the record already had reached appalling proportions.

A clear distinction, of course, requires to be drawn between homicides as revealed by the mortality returns, which concern the victim, and the homicide records of police departments, which reveal the facts of judicial procedure. As regards the latter, this country is most backward when compared or contrasted with other civilized countries, for which adequate statistics are available to show the number of murders committed and the efforts of the authorities showing the number of apprehensions, indictments, trials and convictions.

We have now approximately from eleven to twelve thousand murders a year in this country. It is a safe assumption that in not more than three or four thousand cases is there a conviction of the guilty party. Until we have a system of Federal judicial statistics corresponding to our statistics of births, marriages, divorces and deaths, we shall not have the required evidence to make the strongest possible appeal to the public regarding the existence of a truly deplorable state of affairs. Federal judicial statistics can be inaugurated by the Census Office without serious difficulty. They should be compiled monthly and published promptly to exhibit the current trend of the crime situation. We require to know the frequency and the trend in different forms of serious crimes both against the person and against property. From such fragmentary information as is available it seems to admit of no question of doubt that holdups, burglaries and arson, particularly, are all increasing and becoming more brazen in their effrontery with every evidence of skillful organization. Holdups are staged with consummate skill. Crimes are becoming more subtle and in many cases detection is becoming more difficult. Homicides are frequently obscured in such a manner as to leave no alternative but to classify them as either accidents or suicides.

#### COMPLEXITY OF SITUATION

The various crimes' commissions have made progress now in one direction, now in another, but they have left the problem as a whole practically as before. We need a radical revision of our code of legal procedure, which at present extends every advantage to the criminal and in countless cases aids materially in defeating the ends of justice. Yet law enforcement is the

supreme function of the government not only in one but in every direction. There are reasons for believing that the overemphasis which has been placed upon law enforcement in prohibition has led to a reduction in efforts and efficiency in the enforcement of the law as it concerns crimes against the person and crimes against property. We may well ask ourselves the question whether we fully realize the imperative urgency of much more adequate police protection. To base the ratio of policemen and judicial officers upon the increase in population fails to take into account the fact that our vast wealth is one of the underlying causes of of greater criminal activities. Temptations to crime have enormously increased through the vain display of wealth and affluence, which must necessarily tempt many who are on the borderland of right and wrong. In the handling of money, business concerns, banks, etc., are often guilty by neglect of precaution in holding out temptations to robbery and murder. The ease with which it is possible to secure bail through bonds furnished by certain concerns as a matter of profit-making enterprise is also a contributory factor. The entire situation is a very complicated and indeed an extremely complex problem.

#### THE RACE QUESTION

Statistics are not available that permit of a critical judgment as to whether criminality is relatively more common among the foreign-born or the native-born of foreign descent than among those native-born of native stock. Available statistics of this kind have to be dealt with in an extremely cautious manner since racial prejudice, particularly in the case of the negro, counts for many convictions which, if they involved a white person, would most likely have led to dismissal. The same

is true of Orientals who are frequently dealt with in an extremely harsh manner. But when all is said and done, it seems to admit of no controversy but that the Negro in this country is much more inclined to crimes of violence than the whites. We are apt to forget, however, that the Negro is but little more than half a century out of the bondage of slavery and that as a race he is as yet far from having become thoroughly assimilated to our conceptions of law and order.

Many arguments have been advanced to indict the Italian element in this country and here again there seems to be some reason for believing that the criminal mind is more active among those born in Italy and of Italian parents in this country than among the older element of our American population. The murder death rate of Italy for 1923 was only 4.9 per 100,000, which compares with a rate of more than twice that figure for our American cities for the same year. The Italian rate is now almost 25 per cent higher than it was before the war. Since 1887, the Italian rate has never reached a higher figure than 7.5, which is still 25 per cent lower than the average homicide rate of this country during 1924. The evidence would, therefore, seem to be quite conclusive that Italians in Italy do not commit murder at anything like the rate which prevails among the American population at the present time.

#### SOME INTERESTING STATISTICS

I had hoped to be able, on this occasion, to present results of an extended analysis of the homicide returns from Memphis, New Orleans, Birmingham and Boston. As yet, I am only able to deal with the returns from Birmingham covering the five-year period 1920-25. During that period there were 567 deaths due to murder. According to

age the average age was 31 years. The number of deaths of males was 457 at an average age of 32 years, while the number of deaths of females was 110 at an average age of 25.5 years.

In addition to the foregoing, there occurred 303 deaths from murder in the county of Jefferson, outside the city of Birmingham, also at an average of 31 years. In the whole county of Jefferson during the 5 years under observation there were 870 deaths from murder, of which 701 were deaths of males and 169 were deaths of females. For the city of Birmingham alone, the figures show that out of 567 deaths from homicide, 140 were deaths of white persons and 427 were deaths of colored persons. The average age at death for white persons was 34.3, while the average age at death for colored persons was 29.6 years. For the whole of Jefferson County the returns show that out of 870 deaths for both races, 203 were deaths of white persons and 667 were deaths of colored persons. I have not as yet been able to work out the relative rates in proportion to population.

The age factor in homicide is of exceptional importance. It clearly visualizes the enormous economic loss to the nation since most of the homicides occurred at ages 20 to 49. In Jefferson County, out of 870 deaths from homicide, only 23 occurred at ages under 10, while there were only 20 deaths at ages 70 and over.

Of exceptional interest are statistics relating to homicides by organs and parts of the body affected by wounds or injuries of various kinds. In the whole of Jefferson County there were 649 homicides caused by firearms, of which 121 were due to wounds in the abdomen. Gunshot wounds in the abdomen have recently been discussed by Dr. Rudolph Matas, in an address before the Surgical Conference at New

Orleans. Dr. Matas emphasized the sociological aspects of the murder problem as related to medical and surgical experience.

Other deaths in Jefferson County were as follows: Homicides due to cutting or piercing instruments, 126; homicides due to blow of some blunt instrument, 72; homicides by other means, 12 and homicides by methods not specified, 11. Thus, out of 870 homicides due to all methods, 74.6 per cent were caused by firearms. I will not go into further details to draw once more attention to the disgraceful situation which prevails in this country.

#### CRIME PRODUCING FACTORS

In most sections the unrestricted sale of firearms and ammunition is essentially the cause of our extraordinary and deplorable record of murder in contrast to the murder death rate of practically every other civilized country in the world. Nowhere else, as far as I know, are pistols as frequently carried as in this country and as easily obtainable and as generally misused as they are here. Restrictions upon the sale of firearms is a governmental duty which should have been fulfilled long since. The sale of firearms through the mails is a pernicious practice with regard to which it requires to be said that during the last few years some of the largest of our mail-order houses have discontinued the practice.

Another contributory cause towards the increase in crime is the wide dissemination of so-called detective stories and the dramatizing of crime in the newspapers and in the motion picture shows. Our children and young people are becoming familiar with criminal methods to an unheard of degree. Crimes are being featured in countless periodicals of enormous circulation in alluring colors and suggestive of methods and means by which the

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consequences of criminal actions can easily be escaped. There is urgent need for a censorship, since the public in question is apparently obtuse to the frightful implication that modern reading habits are directly responsible for a considerable portion of the increase in the criminal tendencies of our population.

I wish that I could enlarge upon the inadequacy of the penalties imposed in many of our notorious criminal cases. We frequently deal too harshly with the mild offender while we deal too gently with those guilty of atrocious actions.<sup>1</sup> We also make too much of the insanity plea which can easily be raised in a trial for even the most frightful of crimes. The wealthy employ unscrupulous attorneys who stretch legal technicalities to the utmost and always to the disadvantage of the law-abiding element of the community. We give little thought to the victim, while our sympathy too often goes out to the offender. I will quote in this connection the concluding paragraph of one of the most thoughtful papers on "Crime from a Psychiatrist's Point of View," by Dr. Charles W. Burr, Professor of Mental Diseases, University of Pennsylvania:

My conclusions are that man is an emotional animal rather than a reasoning one, that he possesses a social instinct (bound up with the moral sense), which is the foundation stone of civilization, that the moral sense is potentially present in all normal children, that wise education and good environment can strengthen it by training, and bad environment, save in the highest types, can and does destroy it, that the criminal, in the very restricted meaning of the word as used by the psychiatrist, is either born without capacity to develop the

social instinct and the moral sense, or has lost them by disease, and that such criminals, though not responsible, should be segregated for life, or, if they are of the type that murder or commit rape, should be executed because they are a menace to the state and to the race.

The second of these remedies has long been tried but it has failed. Capital punishment should be abolished, if for no other reason than that it is too rarely imposed where it is fully deserved. Capital punishment proves a barrier to adequate sentences in many cases in which it is the only alternative to a verdict of not guilty. Capital punishment is a relic of barbarism, out of harmony with modern civilized conceptions. Many states in which capital punishment prevails have a higher murder rate than states in which it does not prevail. In kidnapping cases, especially, the risk of capital punishment is often also the cause of the murder of the victim. A league has been formed for the abolishment of capital punishment and it is to be hoped that its efforts may prove successful. But convictions for life should mean what they say. Our system of pardons is also a disgraceful blot upon our judicial records. Pardoning boards often give liberty to those who should be restrained under the iron control of the law. Likewise there should be a stop to the release of criminals sentenced on the claim of insanity because of the alleged return to reason.

We have had some disgraceful experiences in this respect in which an abundance of wealth has unquestionably played an important part. Persons of unbalanced minds have no right to be released. Civilization in its last analysis is a question of self-control and self-restraint. The criminal mind is influenced by a multitude of wrongful suggestions which were never as widespread as at the present time. The

<sup>1</sup>In Harlan County, Kentucky, a prisoner stealing fifty cents from a visitor in jail was given a sentence of ten years, while a man who had murdered a woman in the same county was given also a sentence of ten years.



materialistic spirit of the age is everywhere in evidence. The school, the church and the press combined have failed to emphasize, in season and out, the supreme importance of character and conduct based on right conceptions of human wants and desires. The present age is one essentially characterized by its material progress. Easy means of wealth-gathering within the law too often border on criminal practices outside the law. The boundary line between right and wrong is often obscured by want of understanding. It is a regrettable conclusion that nothing at the present time pays better in a material sense than a criminal career, skilfully followed and aided by skilful attorneys who defeat the law and the best interests of the law-abiding element of the nation as a whole.

#### STATE AND GOVERNMENT STATISTICS

In the furtherance of an effort to secure more trustworthy and useful statistics of homicide, I have also secured the co-operation of the State Health Officer of Louisiana, who has furnished me copies of original death certificates of homicide, briefly referred to as follows:

During the five years ending with 1924 there were 475 homicide deaths in New Orleans, of which 393 were males and 82 were females. The average age at death of males was 31.6 years and of females 30.1 years. Of the deaths 154 were white and 321 were colored. The average age of death of the whites was 35.8 years and of the colored 29.6 years. In the case of the whites the ages range from 14 to 79 years. In the case of the colored, from 9 years to 72. Of the 475 deaths from homicide, 370 or 77 per cent were inflicted by firearms, 63 by cutting or piercing instruments, 16 by some blunt instrument and 24 by other means. In 2 this information was

not given. In the case of 370 deaths due to firearms, 101 were wounds in the chest and thorax, 95, wounds in the abdomen and 27, wounds in the back.

These statistics re-emphasize the previous observation that the major source of homicides in this country is firearms, the reckless use of which is much more general in the South than in other parts of the country. It goes without saying that to the extent to which the practice is curtailed by drastic legislation the homicide problem will be brought nearer to a successful solution.

Some useful statistics of crime are also available for the state of New York as reported annually by the Secretary of State. These show that in 1900 there were 2599 convictions for felonies against 5560 in 1924, but it is rather interesting to note that, while the highest number of convictions was reached by 1915, or 6723, the number rapidly declined during the next few years, reaching a second maximum in 1922 when the number was 6612, diminishing to 5586 for 1923 and to 5560 by 1924. Crimes against the person increased from 731 convictions in 1900 to a maximum of 1830 in 1915, while a second maximum was reached in 1924 of 1816. But all such statistics of crime, in the absence of a thoroughly standardized system of judicial procedure, are of only limited value. Convictions, of course, depend upon the efficiency of the police in apprehending criminals and of the attitude of the courts in the matter of judicial severity. What the public is most in need of is statistics of crime committed and reported to the police, as well as of crimes in which the offenders have been brought to justice. It is for this reason that I have always emphasized the practical value of the homicide death statistics in that they admit of no question of controversy although lim-

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ited to the victim and not concerned with the offender.

Convictions of murder in the first degree in New York State numbered 25 in 1910, 14 in 1920 and 21 in 1924. Homicide convictions of murder in the second degree numbered 26 in 1910, 30 in 1920 and 26 in 1924. The convictions of manslaughter in the first degree numbered 49 in 1910, 52 in 1920, and 51 in 1924. Manslaughter convictions in the second degree numbered 22 in 1910, 27 in 1920 and 38 in 1924. Combining the figures it appears that there was an increase in murder convictions from 122 in 1910 to only 136 in 1924, obviously out of all proportion to the actual increase in homicide deaths. Electrocutions have varied widely from year to year. In 1910 there were 12 which by 1912 had reached a maximum of 22 and by 1919 a minimum of only 2. Since then the executions have been as follows: In 1920 there were 16, in 1921 there were 11, in 1922 there were 17, in 1923, 16, and in 1924 there were only 4. In other words, while there were 21 convictions for murder in the first degree, only 4 murderers were executed. I believe that under the circumstances the force of arguments in favor of abolishing capital punishment entirely has everything in its favor.

The most recent official statistics of crime are the U. S. Census Returns of Prisoners for 1923. These statistics show that the number of prisoners in prisons and reformatories increased between 1910 and 1923 from 67,871 to 81,479. The number of commitments of such prisoners during the period increased from 27,732 to 37,585. The total number of commitments to prisons and reformatories, as well as jails and workhouses, actually diminished from 111,498 in 1910 to 109,619 in 1923, while in proportion to the population there was a decrease from a

rate of 121.2 per 100,000 in 1910 to 99.7 in 1923. Commitment on account of burglary increased from 8105 in 1910 to 8574 in 1923, while in proportion to population the rate of such commitments actually decreased from 8.8 per 100,000 to 7.8. Commitments on account of homicide increased from 2786 in 1910 to 3906 in 1923. In proportion to population there was, therefore, a slight increase from 3.1 per 100,000 in 1910 to 3.6 per 100,000 in 1923. The commitments on account of carrying concealed weapons decreased from 6460 to 5642. Commitments on account of robbery, however, increased from 657 to 3584.

There was likewise a very material increase in commitments on account of rape, or from 1406 to 8149. Commitments on account of fraud diminished considerably, or from 8924 to 4766. There was also a decrease on account of gambling from 5893 to 4035, but a very material increase in commitment on account of forgery, or from 2063 to 4093.

As regards sentences it appears there were 166,356 sentences between January and June, 1923, of which only 57 were sentences of death. For 1910, of a total number of sentences of 479,787, only 130 were sentences of death. Of the 166,356 sentences during the first six months of 1923, 38,828 were Negroes, 835 were Indians, and 441 Orientals. Negroes, therefore, formed 23 per cent of the commitments although they constitute only about 10 per cent of the total population. The number of foreign-born white prisoners was 31,054, while that of native-born whites was 90,496. On the basis of population, therefore, as estimated by the census, the ratio of commitments was 325 per 100,000 for all elements, or respectively, 281 for the white population and 797 for the Negro. It was 239 for the native-born whites and 488 for

foreign-born whites. Insofar as these statistics can be relied upon, the foreign-born are just about twice as liable to commit crimes as the native-born. Compared with 1910, however, there is apparently a very decided improvement, for in that year the ratio of commitments per 100,000 of population was 738 for the foreign-born against 488 for the native-born in 1923. For the native-born there was a decline in the rate from 355 in 1910 to 239 in 1923. While crimes among the native-born, therefore, decreased 33 per cent, among the foreign-born there was a decrease of 34 per cent. The corresponding decrease in crime among the Negroes was 26 per cent.

The census statistics would, therefore, indicate a relative diminution of crime rather than an increase. It is extremely difficult to square these statistics with general impressions based on everyday occurrences clearly suggestive of the conclusion that serious crimes in this country are increasing, but apparently not reflected in commitments or convictions. If the latter conclusion is correct, there remains no alternative but to assume that a vast amount of crime in this country goes at present undetected and unpunished. In any event, homicides have nearly doubled in the last twenty years in proportion to population, but this fact is not reflected in the number of those who are serving sentences in prison or who have been executed.

#### SUMMARY OF CONCLUSIONS

1. Homicides are unquestionably on the increase, the present rate of frequency for the United States considerably exceeding that of any other civilized country in the world.
2. The most urgent present need is for the establishment of a system

of Federal judicial statistics under the direction of the Director of the Census.

3. The most urgent practical measure is the prompt enactment of drastic legislation prohibiting the possession of firearms and ammunition except when duly authorized by a competent authority. The British Firearms Act, in this respect, is an admirable precedent.
4. Another important practical measure would be more effective restrictions on the sale of poisonous substances.
5. Coroner's inquests should be replaced by methods of medical examinations in suspicious cases and a complete autopsy should be performed in all cases.
6. Capital punishment should be abolished as not an effective deterrent in capital cases and a hindrance to a satisfactory judicial procedure.
7. There is the utmost necessity for speedier trials which are now unduly prolonged, especially in spectacular cases.
8. It would be desirable to increase the practice of having women on juries in serious criminal cases.
9. Pardons should be strictly limited to only such cases in which the evidence would obviously justify executive clemency.
10. The insanity plea should be accepted only in cases in which it would be unquestionably justified.
11. Police protection should be considerably increased and as far as practical every state should establish a state police. The chief of police as well as the attorney general should each year pub-

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lish a complete statement of all crimes as well as of unsolved crimes.

12. The judiciary as well as the police should be more adequately compensated for their service, while tenure in office should be made more secure.

13. Research studies in crime should be encouraged and adequately supported.

14. A monthly record of homicide deaths should be published by authority and likewise monthly police and prison statistics of different forms of serious crimes.

## Is Murder Increasing in Europe?

By THORSTEN SELLIN\*

Assistant Professor of Sociology, University of Pennsylvania

IF the daily press were a safe index to the moral and spiritual life of our nation we might well feel alarm for the future. The forces of law and order seem to be powerless in face of the ever mounting crime rate, and the sensational murders, the sensational court trials, and the organized lawlessness appear to be indicative of a contempt for law and order which, instead of decreasing with growing material progress, seems to be on the increase. More than one who have followed with concern this phenomenon have probably asked themselves if other countries than the United States were facing the same problem. This article will attempt to furnish an answer to that question so far as some European countries are concerned and so far as the source material at hand will permit.

For the purpose of studying the trend of serious criminality in Europe I have chosen the crime of homicide and particularly its worst form, murder. The choice has been governed by two considerations: the nature of the offense insures uniformity in its defini-

tion at law in the various countries, and permits an evaluation of the influence of the war on crimes against life. The countries studied have been selected because they possess good statistical material for a sufficient length of time. The newer nations of Europe have been disregarded either because the source material is lacking or is hopelessly entangled due to the territorial changes. By taking five belligerent and four non-belligerent nations I have hoped to place in relief the war and post-war conditions.

The data used for the preparation of the tables are of varying nature. Some countries possess very detailed mortality statistics, which have yielded the annual number of deaths due to murder (Sweden), of violent deaths due to crime (Holland), or of deaths due to voluntary homicide (Germany). From the criminal statistics, as published either in special reports or in statistical annuals, I have extracted the following information: (a) the annual number of murders known to the police (England and Wales); (b) the annual number of "accusations" of murder (*omicidii denunciati*) (Italy); (c) the annual number of persons tried for voluntary homicide (England and Wales, France); (d)

\* Mr. Sellin is on leave of absence for investigation in the field of criminology on the Continent.—EDITOR'S NOTE.







TABLE A—THE TREND OF EUROPEAN MURDER RATES SINCE 1900

| NUMBER PER 100,000 INHABITANTS (except columns 3 and 5) |  |                      |  |                      |  |                      |                                       |                                     |                             |                                       |  |                        |   |                                       |                                       |   |
|---|--|----------------------|--|----------------------|--|----------------------|---------------------------------------|-------------------------------------|-----------------------------|---------------------------------------|--|------------------------|---|---------------------------------------|---------------------------------------|---|
| YEAR  | SWEDEN                                     |                      | ENGLAND AND WALES                            |                      |  |                      | DEN-MARK                              | HOLLAND                             |                             | GERMANY                               |  | ITALY                  |   | FIN-LAND                              | NOR-WAY                               | FRANCE  |
|   | Persons found guilty of voluntary homicide | Deaths due to murder | Murders known to police (excl. infanticides) |                      | Persons tried for murder (incl. infanticide) |                      | Persons found guilty of vol. homicide | Verdicts of guilty of vol. homicide | Violent deaths due to crime | Persons found guilty of vol. homicide | Deaths due to vol. homicide (incl. executions) | Deaths due to homicide | Accusations of homicide (incl. tentative) | Persons found guilty of vol. homicide | Persons found guilty of vol. homicide | Persons tried for vol. homicide (excl. infanticide) |
|   |  |                      | Total number                                 | Per 100,000 inhabit. | Total number                                 | Per 100,000 inhabit. |                                       |                                     |                             |                                       |  |                        |   |                                       |                                       |   |
|   |  |                      |  |                      |  |                      |                                       |                                     |                             |                                       |  |                        |   |                                       |                                       |   |
| 1   | 2  | 3                    | 4  | 5                    | 6  | 7                    | 8                                     | 9                                   | 10                          | 11                                    | 12   | 13                     | 14  | 15                                    | 16                                    |   |
| 1900  | ..   | ..                   | 89   | .27                  | 51   | .16                  | ..                                    | ..                                  | .16                         | ..                                    | 6.3  | 10.8                   | ..  | .36                                   | ..                                    |   |
| 1901  | ..   | ..                   | 103  | .32                  | 74   | .23                  | .16                                   | ..                                  | .43                         | ..                                    | 6.2  | 9.8                    | .73                                       | .49                                   | ..                                    |   |
| 1902  | .63  | ..                   | 95   | .29                  | 71   | .22                  | .32                                   | .28                                 | .67                         | .49                                   | 6.1  | 9.8                    | 1.19                                      | .66                                   | ..                                    |   |
| 1903  | .98  | ..                   | 108  | .32                  | 78   | .23                  | .88                                   | .31                                 | .68                         | .47                                   | 5.8  | 9.4                    | .71                                       | .31                                   | ..                                    |   |
| 1904  | .78  | ..                   | 102  | .30                  | 70   | .21                  | .16                                   | .40                                 | .84                         | .46                                   | 6.5  | 9.1                    | .59                                       | .35                                   | 1.37                                  |   |
| 1905  | .43  | ..                   | 92   | .27                  | 63   | .19                  | .19                                   | .45                                 | .86                         | .45                                   | 1.89   | 7.9                    | 8.6                                       | .97                                   | .30                                   |   |
| 1906  | .54  | 1.51                 | 87   | .25                  | 63   | .18                  | .31                                   | .43                                 | .62                         | .43                                   | 1.86   | 3.9                    | 7.9                                       | 1.53                                  | .39                                   |   |
| 1907  | .76  | ..                   | 81   | .23                  | 45   | .13                  | .30                                   | .37                                 | .92                         | .44                                   | 2.04   | 3.8                    | 8.0                                       | 1.64                                  | .47                                   |   |
| 1908  | .66  | ..                   | 112  | .32                  | 67   | .19                  | .26                                   | .59                                 | .96                         | .46                                   | 2.04   | 4.5                    | 11.4                                      | 2.22                                  | .68                                   |   |
| 1909  | .38  | ..                   | 109  | .31                  | 77   | .22                  | .44                                   | .60                                 | .93                         | .45                                   | 2.11   | 4.0                    | 12.6                                      | 1.88                                  | .25                                   |   |
| 1910  | .69  | 1.51                 | 89   | .25                  | 73   | .20                  | .18                                   | .36                                 | .84                         | .47                                   | 1.95   | 3.3                    | 10.2                                      | 1.70                                  | .39                                   |   |
| 1911  | .41  | 1.21                 | 102  | .28                  | 77   | .21                  | .32                                   | .42                                 | .78                         | .49                                   | 1.83   | 3.1                    | 8.8                                       | 2.03                                  | .37                                   |   |
| 1912  | .50  | 1.43                 | 93   | .26                  | 63   | .17                  | .32                                   | .53                                 | .82                         | .49                                   | 2.06   | 3.2                    | 9.8                                       | 1.69                                  | .25                                   |   |
| 1913  | .37  | 1.42                 | 111  | .30                  | 67   | .18                  | .32                                   | .55                                 | .64                         | .55                                   | 2.16   | 3.4                    | 9.5                                       | 1.27                                  | .49                                   |   |
| 1914  | .30  | 1.31                 | 92   | .25                  | 55   | .15                  | .38                                   | .67                                 | .80                         | .46                                   | 2.09   | 3.8                    | 8.4                                       | 1.87                                  | .48                                   |   |
| 1915  | .39  | 1.65                 | 81   | ..                   | 47   | ..                   | .45                                   | .86                                 | .85                         | .25                                   | 1.60   | 3.5                    | 8.2                                       | 1.00                                  | .34                                   |   |
| 1916  | .33  | 1.27                 | 85   | ..                   | 54   | ..                   | .41                                   | .37                                 | .73                         | .24                                   | 1.19   | 2.6                    | 6.7                                       | 1.14                                  | .43                                   |   |
| 1917  | .26  | 1.09                 | 81   | ..                   | 48   | ..                   | .07                                   | .44                                 | .52                         | .21                                   | 1.12   | 3.0                    | 6.0                                       | .96                                   | .23                                   |   |
| 1918  | .21  | .98                  | 81   | ..                   | 57   | ..                   | .33                                   | .86                                 | .97                         | ..                                    | 1.56   | 2.8                    | 5.4                                       | 1.20                                  | .23                                   |   |
| 1919  | .22  | .96                  | 123  | (.33)                | 83   | (.22)                | .33                                   | .37                                 | 1.17                        | ..                                    | 3.25   | 4.5                    | 8.6                                       | 1.86                                  | .15                                   |   |
| 1920  | .42  | 1.24                 | 121  | .32                  | 90   | .24                  | .23                                   | .66                                 | 1.05                        | ..                                    | 3.02   | 7.3                    | ..  | 2.85                                  | .15                                   |   |
| 1921  | .32  | ..                   | 90   | (.24)                | 63   | (.17)                | .37                                   | .52                                 | .83                         | 1.00                                  | 2.30   | 7.3                    | ..  | 3.50                                  | .37                                   |   |
| 1922  | .15  | ..                   | 100  | (.26)                | 60   | (.16)                | .36                                   | ..                                  | 1.02                        | ..                                    | 2.14   | 6.6                    | ..  | 3.09                                  | .48                                   |   |
| 1923  | .23  | ..                   | ..   | ..                   | ..   | ..                   | ..                                    | ..                                  | .87                         | .67                                   | 2.30   | 4.9                    | ..  | ..                                    | ..                                    |   |

N. B.—Diagram 1 has been prepared from columns 1, 4, 7, 8, 11, 12, 14-16.

I have found no population figures.

The content of the data used is not uniform, as can readily be seen from the headings of Table A. For some countries, Italy, for instance, it has been necessary to use the statistics of homicides of all kinds, while the Scandinavian countries have furnished the voluntary homicides alone. In the case of France, infanticides have been excluded and this is true of the English figures relating to the murders known to the police. The German mortality statistics of voluntary homicides contain, curiously enough, the number of executions, which I have made no attempt to isolate.

It would have been desirable to have a uniform basis for all countries, such

as the number of individuals annually found guilty of murder or the number of murders known to the police, but the lack of uniformity in the source material makes this impossible. For the purpose at hand it is, besides, quite sufficient to insure a constant base for each separate country for the entire period studied. The sole aim of this paper is to indicate the *trend* of the murder rates in Europe, and it might be wise to warn the reader that the statistics used have little or no value for comparative purposes.

While the tables and the diagrams speak for themselves, it might be worth while to emphasize two interesting features portrayed by them, *i.e.*, the effect on the murder rates caused by the

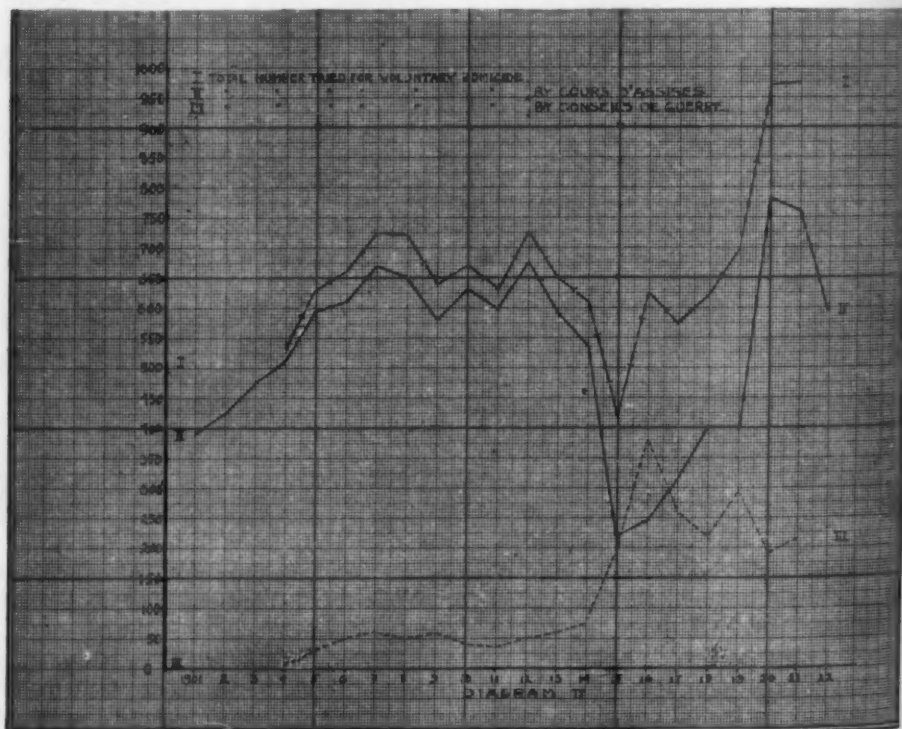
war and by the period of demobilization.

#### EFFECT OF WAR AND DEMOBILIZATION

All the belligerent countries show a decrease in the murder rate particularly during the first year of the war. This decrease, which at least in some countries seems to have persisted during the entire struggle, has sometimes been attributed to a wave of ennobling patriotism, but it was more likely due to the temporary enrollment and discipline of the young men of the age groups which furnish the chief contingents of criminals. What really occurred was the transfer of the criminal from the civil to the military sphere and while the change in environment may have proved a temporary bar to his activity, it was soon removed as can be seen from a closer examination of the French criminal statistics.

These statistics come from two sources and the student who consults only those published by the Ministry of Justice might easily come to believe in the efficacy of war, at least as a preventive of serious criminality.

There is another source as important, the statistics published by the War Ministry, because even in peace time the Courts Martial have jurisdiction over all offenses against the common law committed by members of the armed forces. These statistics, which France unlike some other nations has seen no political reason to suppress, are unfortunately not very detailed, but since 1904 murder has been listed separately. In Table B and Diagram II will be found the total numbers of individuals tried for murder by the *Cours d'Assises* and the *Conseils de Guerre* in France proper. Only totals have been given, but the population



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TABLE B\*

| YEAR      | PERSONS TRIED FOR MURDER IN FRANCE |   |       |                                     |
|-----------|------------------------------------|---|-------|-------------------------------------|
|           | By the "Cours<br>d'Assises"        | By the "Conseils<br>de Guerre" and<br>the "Conseils<br>Maritime de<br>Guerre" | Total | Total<br>Including<br>Infanticides† |
| 1904..... | 512                                | 18  | 530   | 613                                 |
| 1905..... | 597                                | 32  | 629   | 720                                 |
| 1906..... | 611                                | 48  | 659   | 747                                 |
| 1907..... | 670                                | 57  | 727   | 840                                 |
| 1908..... | 646                                | 48  | 694   | 781                                 |
| 1909..... | 581                                | 60  | 641   | 719                                 |
| 1910..... | 630                                | 41  | 671   | 771                                 |
| 1911..... | 596                                | 36  | 632   | 742                                 |
| 1912..... | 674                                | 51  | 725   | 832                                 |
| 1913..... | 591                                | 60  | 651   | 747                                 |
| 1914..... | 537                                | 75  | 612   | (679)                               |
| 1915..... | 222                                | 197   | 419   | (499)                               |
| 1916..... | 246                                | 379   | 625   | (763)                               |
| 1917..... | 314                                | 259   | 573   | (703)                               |
| 1918..... | 308                                | 222   | 620   | (749)                               |
| 1919..... | 309                                | 206   | 695   | 829                                 |
| 1920..... | 781                                | 189   | 970   | 1165                                |
| 1921..... | 759                                | 216   | 975   |                                     |
| 1922..... | 595                                |   |       |                                     |

\* I have made no attempt to refine these figures, but considering the extremely slow growth of the French population this is not a serious fault, considering the purpose for which they are used.

† For the war years the number accused of infanticide has not been published. The figures within parentheses represent the sum of the number of *persons* tried by the District Courts and the Courts Martial and the number of *cases* of infanticide tried by the District Courts. The totals would therefore have been a little higher had I been able to employ the figures of the pre- and post-war basis. The difference is slight, however, and probably never rises above 5-25 per year.

changes have been so small during the period in question that the general trend disclosed by them is not seriously affected. An examination of these figures will show that the decrease in the French murder rate was accentuated only during 1914-15 and 1917, while the year 1916 almost reached the levels of 1909 and 1911. The rate is illusory for another reason, the exclusion of the infanticides, which beginning with 1916 rose to double the pre-war numbers. These figures added, the French murder rate shows a fall only for the years of 1914 and 1915,

later regaining and superseding pre-war levels. If it were possible to establish a rate taking into consideration the immediate loss of territory due to the German invasion, even the first years of the war might not show a decrease in the murder rate so far as France is concerned.

England and Wales present the interesting phenomenon of a murder rate almost untouched by the war, but since I possess no information regarding the criminality of the English army it is impossible to make any valid statement in its regard. So far as the non-

belligerents are concerned, the war seems to have exercised no influence on the murder rate.

There is no doubt that the demobilization period saw a great increase in the rate of murders in the belligerent nations with the possible exception of England and Wales. To what extent can the blame be placed on the degenerating moral effect of the war, on the disregard for human life learned by the returning soldiers, on the homicidal lust which seeks new expressions after years of complete satisfaction, all explanations which have been or are current?

While an answer not based on a profound analysis is hypothetical, it may at least serve as an indicator. In 1919 and 1920 there were, in England and Wales, 123 and 121 murders, respectively, known to the police, while 1908 and 1909 provided 112 and 109. A glance at Table A will show that during the last mentioned years, a period of economic distress and consequent social and individual maladjustments, the murder rate was relatively as high or higher than that of the demobilization period. Even though England and Wales have, everything considered, an extremely favorable crime rate, a rate with light fluctuations, it is legitimate to wonder if the great rise in the post-war murder rate is not, with the exception of some isolated crimes, almost wholly related to the abnormal political, economic and social conditions born out of the war. Such an explanation seems to the writer most probable.

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1911



# Laws Men Break and Why

By EDWIN M. ABBOTT

Counsel for the Director of Public Safety of Philadelphia

SINCE the dawn of Creation man has fought against inhibitions of his freedom of thought and action. The association of people into communities brought with it the necessity of legal restrictions, but to certain individuals those restrictions have always been obnoxious and repugnant.

The tendency of modern legislation has been more and more to curb the natural predilections of man and has resulted in general confusion when authority has attempted to enforce such laws.

But the general antipathy to law enforcement is not confined to the present. It is only more general and more demonstrative.

There are so many laws that have been disregarded that it is time that something is done to ameliorate conditions. Man was never made good by legislation. He often behaves in fear of the law, and he sometimes obeys because of a desire to escape the penalty. Religion, patriotism, education and social conditions are more conducive to the higher morale of a people than all the laws of nations combined.

## PRICE OF LIBERTY

And it is individual selfishness that has developed a most dangerous condition. While the world is more charitable toward the needy and suffering, it has become obsessed with the demand for so-called "personal liberty" and, as the wealth of this nation has been growing at tremendous leaps and bounds, with this accumulation has grown a disregard for law and the traditions upon which this nation was founded. Pur-

ists insist everybody must be pure. Liberals request everyone to be liberal, and reformers in all walks of life endeavor to construct an Elysium which only the millennium can secure.

In ancient days when might was right, we had classes of all kinds. In modern times wealth and political affluence run riot through the land and we have again been segregated into classes. "Liberty" has been interpreted to mean "License" and "The Land of the Free" defined to mean "do as you please without regard to others." The Golden Rule is gradually becoming emaciated. Therefore, men have determined that the laws of to-day which are obnoxious shall be disregarded, and that most laws are made for the other fellow, anyway. Circumstances that control us under ordinary conditions are often forgotten and submerged in the desire for liberty, and so we face a general disregard of law participated in by individuals, collective groups and in many instances by states or communities.

## LAWS MEN BREAK

Let us therefore consider certain laws which men will not respect and obey. The automobile laws restrict speeding, parking, lighting and rules of the road. Pennsylvania has a maximum speed of thirty miles per hour, yet automobiles are advertised to do fifty, seventy-five or even one hundred miles per hour and the owner endeavors to demonstrate that his car can attain such speed. He wants to go as fast as he pleases, drive wherever he pleases, park where he pleases and use



such lights as he pleases, but the *other* fellow should respect the law in all particulars.

The crime of adultery might be eliminated from both sacred and profane literature. This law was never meant to be enforced in these modern days, and its usefulness is subrogated to the divorce court. It is but another restraint on personal liberty. And only in the divorce court do we have evidence that this crime has been committed. If you examine the records and read of the thousands of divorces that have been granted for this reason and then consider that rarely has a criminal prosecution been brought based upon the same facts, one must wonder if such an offence is really a crime.

In the state of New York, adultery is the sole ground for absolute divorce. Yet how many inmates in the penal institutions of that state are serving time for that offence? The Mann Act covers the same offence under Federal jurisdiction, but we all know that of the thousands of such transgressors, few find their way into our courts. The criminal is only the poor fool who gets caught and cannot adjust his differences by the monetary scale.

Gambling is another subject which touches the personal liberty of our citizens. In Pennsylvania, gambling is not a crime. But certain kinds of gambling are. It is a crime to bet on an election, and while the penalty is not serious, everybody disregards this law and we never hear of prosecutions. The maintaining of gambling establishments, betting on horse races, being a common gambler and setting up lotteries or gambling devices are all contrary to law, but in the sweet name of charity some churches often recognize the innocent lottery and forget that every sale of a paddle or a chance on the sewing machine or cake is contrary to the law of the Commonwealth.

How many of us are conscientious in our returns to the Federal Government for our income taxes? We are instructed that our winnings at poker or other card games must be returned as a part of our income, and that our losses should not be deducted. Have you ever met a winner who makes such a return? Are we honest with Uncle Sam in our return upon which our contribution to the support of the government is based? The Commandment "Thou Shalt Not Steal," and the laws founded thereon, are equally applicable to defrauding the Federal Government or an individual.

And that brings us to the crime of smuggling. It sounds like a harsh word, and we think of the pirates of old when we contemplate such a crime. But to-day, it is a social event. Returning from a trip abroad with jewelry, fine linen, and other purchases, the erstwhile "good citizen" contrives to get his booty home without paying the duty, and later in the social circle he boasts how it came through with his political influence, or the tip to the Customs officials. And this opens up the subject of bribery, which is such an extensive one that it reaches into many branches of trade and into every avenue of activity. Public officials seem to be the targets for bribery, and we should be thankful that most of our public servants do not succumb to the temptation. But citizens who want some favor or special privilege will not hesitate to go into our legislative halls, official offices, or out into the highway and attempt by the use of money to secure what they desire. Have we carefully considered how the modern lobbyist secures special legislation? Does he always obtain votes by moral suasion, or argument?

The enforcement of the Volstead Act has opened many channels for the illegal use of money. Disregard of the

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18th Amendment, which is a part of our Constitution, and as much a part of the Constitution as the Bill of Rights, has led to the commission of many other crimes beside that of bribery. A most amazing condition has resulted to the body politic through the honest attempt in Philadelphia to enforce the prohibition laws. Perjury struts naked through our halls of justice, and disregard for the sanctity of the oath prevails in most of these cases. Public officials, police officials, magistrates, grand jurors, petite jurors, and even some judges upon the Bench forget that they are all sworn to uphold the Constitution and laws, both of the Nation and the Commonwealth, before they enter upon the activities of their offices. Witnesses in court no more regard the oath as binding them to tell the truth, but use their testimony to their own advantage, irrespective of its truth or falsity. If jurors do not like a law they acquit defendants who are charged with transgressing it. If jurists find the law obnoxious to them they discharge malefactors convicted of breaking it. If police officials have been tainted with avarice and have fallen for a price, then memory becomes hazy and faulty, and so we have farce after farce enacted in what should be courts of justice.

There are many other crimes committed in the general disregard for law. The family physician, pressed to the limit by the exigencies of necessity, commits abortion to save the reputation of the daughter of the family which he has attended for many years.

The election official, ambitious to ascend the political ladder, takes a chance in disregarding election-law restrictions.

The so-called "good citizen" salves his conscience with exorbitant rentals of his real estate and does not consider

the moral character of his tenant or the illegal purpose for which it is used.

The unthinking adult in the social circle or in the home disregards the restriction forbidding the furnishing of cigarettes to minors.

Blasphemy is still a crime, but you meet it at every corner.

The protection of health, sanitation, child-labor and factory laws to the minds of many are impediments, and if one can forget them and evade them, well and good.

The Blue Laws are still upon the statute books. Many of them are relics of colonial days. Most of them are disregarded. Where is the legislator who will have the temerity to introduce a repealer for one or all of these acts, which are never observed?

The Narcotic Drug Act and the Pure Food Act are excellent pieces of legislation which many agree should be stringently enforced, and yet the drug addict is with us. The dispenser of such poison is only spasmodically run to earth. He even preys upon our school children and enters our homes and offices, increasing this nefarious traffic in many communities. We should be thankful that in Philadelphia a concerted effort has been made by our judges and police which has practically eliminated this terrible practice.

The Pure Food Restrictions regarding adulteration or misbranding are evaded in many instances, and detection too often is punished with the imposition of a small fine. Seldom does anyone receive a term in prison for this offence.

I might go on *ad infinitum*. The legislature decides we shall not have daylight saving, and individuals resent such action and do as they please. One state made it a crime to advance clocks or watches, and such an act passed the Pennsylvania Legislature in

1925, but the Governor vetoed the bill. Last summer I passed through a state where changing of time-pieces constituted a crime and when I asked a good citizen if his clock was not registering contrary to law, his reply was, "Who pays any attention to such a law?" That seems to be the mental attitude of many citizens to-day.

The Anti-Trust laws are dying of dry-rot and usury prevails in many garbs. The bonus is the most popular way of circumventing the six per cent interest limitation.

Barratry and champerty are ancient crimes employed by the modern ambulance chaser, co-operating with certain lawyers and physicians. But all evade prosecution for these offenses which they are continually committing, and which are simply denoted unethical but not criminal.

Foretelling the future is also a crime, but our best citizens encourage these fortune-tellers and thus contribute support to another class of law-breakers.

I have only enumerated what must be but a partial list of laws that are only respected in the breach.

But remember, for every policeman who accepts a bribe, there must be someone who gives it. For every boot-legger who dispenses illegal beverages, there must be citizens who purchase them.

The so-called crime wave is running rampant throughout the land. The populace is in hysteria in many sections. Murder, robbery, burglary, arson, rape, blackmail, kidnapping, larceny and kindred crimes are reported from every corner of this great nation.

The highwayman contends that all laws are alike and he will not respect the inhibitions against stealing. The foreigner in our midst does not respect our restrictions on his ideas developed in Soviet Russia or elsewhere and so he

appropriates to his own use just what his perverted conscience demands.

#### HOW TO REMEDY PRESENT CONDITIONS

How are we going to remedy this menacing and deplorable condition? The first thing to do is to try to re-awaken the consciousness of all true Americans. When that is done we must act.

The first place to begin is in the home. Parents must set the proper example before their children. By precept and practice the youth of the land must be trained to walk in the paths of law-observance.

The foreigners within our bounds must be impressed with the fact that if they wish to enjoy the benefits of this great nation they must respect its laws, customs and traditions. If they refuse to do so, they should be transported back to the land from whence they came. Congress should broaden the laws allowing us to deport all foreigners who become criminals before they have become naturalized citizens.

Every American should take advantage of the franchise. He should register and vote at every election and when public officials of any party are recreant to their oaths, they should be driven from office by a combined and determined electorate.

Every law-observing American ought to serve as a juror in the courts when called to that high duty. He should take his place in the grand jury room or in the jury box and see that even-handed justice is dispensed to both the Commonwealth and its citizens.

When crimes are committed there should be prompt arrests, speedy trials and adequate punishments. Delays and red tape should be eliminated. Mercy should always temper justice but should not be abused. When laws

are mocked time and again after the imposition of fines, then proper jail sentences should be imposed. First offenders should be handled in such a way as to give them a chance for rehabilitation, but recidivists and confirmed criminals should be segregated entirely from their fellows. They are a menace and should be safely interned.

The subject of adequate penalties is a most important one. The difference in Pennsylvania between misdemeanors and felonies is incongruous and means nothing from the present condition of our statute law. These differences should be abolished and all offences should be enumerated as crimes. The more serious offences should have more drastic punishments. Maximum penalties prescribed for many crimes should be increased.

The Ludlow Bill should be repealed or modified and should not apply to any criminals except first offenders. The extension of parole to first offenders at the expiration of their minimum sentence should be under strict conditions, but no others should be discharged from a penal institution until they have clearly demonstrated their repentance and ability to return to society.

The system of probation and suspended sentence should only be exercised on behalf of first offenders. Those who continually break the law, especially in disregard of the liquor, food and other laws touching our social fabric, should not be allowed to escape with merely a fine or costs. A mandatory jail sentence should be written into the law for those who refuse time and again to obey it.

We should remember that a sentence

is not only a punishment for the offender, but should act as a deterrent to others. It should serve as a reminder to all offenders to reform or take the consequences. There should be a revival of the double penalties for second and third offences. This system is practically obsolete, although still a part of our statute law.

When prisoners are sent to penal institutions they should be given proper employment and compensation. There are many reasons for this. The most important ones are: To keep them employed and thus improve the morale of the institution, and to teach them a trade or occupation which they can use when discharged. From their remuneration, the state should be reimbursed for the costs of prosecution and maintenance; dependents outside should be supported during the period of incarceration and a fund should always be accumulated to turn over to the prisoner at discharge for his use when he returns home and endeavors to live a law-abiding life. This would fortify him against temptation until he could secure permanent employment.

Drastic laws forbidding the indiscriminate sale of firearms and deadly weapons should be enacted and enforced. This is the most vital need of the present day.

And the pardoning power should only be exercised where extreme emergencies require it.

Could we awaken our people to the truth and make them realize that the future of America depends upon the sanity of the present, we will still be in time to arrest this criminal outbreak and preserve for our children the great heritage given us by our Fathers.





# The Profession of Bootlegging

By JOSEPH K. WILLING

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## MODERN TENDENCIES IN CRIME

IN considering the subject, "Modern Tendencies in Crime," it occurred to me that as far as my particular field is concerned, the subject might have been better entitled "Tendencies in *Modern Crime*," for, although crime runs back through the ages to the time when Eve first approached the cider tree, Cain slew Abel, Jacob stole a birthright, and Gomer was captivated by the white lights of Samaria, the crime of trafficking in intoxicating liquors is a modern one. I desire to emphasize the word "crime" and not "trafficking" because wine was construed in ancient times as a gift of the gods. In Egypt this gift was ascribed to Osiris, in Greece to Dionysius, and among the Hebrews to Jaweh, through Noah. The Phoenicians brought wine to Spain and the Greeks to Italy and Southern Gaul.

The crime was officially conceived when the 18th Amendment was added to the Constitution of the United States on January 16, 1919. It was born when the Volstead Act was passed on October 28, 1919, and the young infant was abandoned on the door step of a wet world on January 16, 1920. It got its teeth when the states, one by one, passed individual enforcement acts, like the Snyder Bill in Pennsylvania. This modern progeny of Beelzebub, though only six years old, has shown great precocity and has lured many to its embrace. It is perhaps the most insidious, ubiquitous and at the same time "genteel" of all crimes. Technically, bootlegging

is a misdemeanor and not a felony.

The specific subject which I have been asked to discuss is the "profession of bootlegging." When my mind first attacked this subtitle it asked itself, what is a profession? I resorted immediately to the dictionaries and found it to be generally described as a phase of human endeavor, openly avowed by one who has become expert by reason of special scholastic training. The latest Funk & Wagnalls' Dictionary is the only one which seems to know anything about bootlegging. Whatever is said about it there implies that there is a sort of antinomy between the word "profession" as defined above and "bootlegging" as it is generally practiced and known. Bootlegging has none of the characteristics of the definition, except that it seems to be a new line of human endeavor. It is, however, not openly avowed and requires no scholastic education nor academic sanction.

It is presumed that the word "bootlegging" comes from a practice in some of the southern states where the "moonshiner" sought to avoid the payment of the Federal tax on manufactured distilled spirits. The moonshiner would deliver his pint or half-pint in the leg of his boot and this article of wearing apparel may be described as the first vehicle used in the transportation of intoxicating liquor, even antedating the hip-pocket. Whatever be the historical antinomy inherent in the title chosen, it seems that the public at large is prepared to recognize a new profession, and to require no academic degrees for



its candidates. This new profession wrings from the bosom of Mammon many more shekels than its legitimate brethren. Let us now turn to a consideration of its characteristics.

Like all professions in this modern age, it has become specialized, and the specialties arrange themselves in the following categories:

- I. Smuggling and transportation
- II. Redistillation or recocking
- III. Doctor and druggist complex
- IV. Brewing of high power beer
- V. Home brew and accessory stores
- VI. Homemade wine, ciders and cordials

To state the divisions of the profession is to say almost all that need be said about them. They have become so well known that the public can be said to take judicial notice of their content.

#### SMUGGLING AND TRANSPORTATION

Under the heading of "smuggling and transportation" we include that individual, corporation, ring or gang whose primary business is to import intoxicating liquors into the United States. This specialty divides itself into two classes: trans-oceanic traffic, and trans-continental traffic. Considering first trans-oceanic traffic: it is important to recognize that most of the details incident upon a legitimate shipment of merchandise are incident in the smuggling of intoxicating liquors. Ships must be chartered, crews must be employed, finances must be arranged, insurance policies must be obtained or a reserve fund set aside to cover risks, and the hazards of the ocean encountered, with the additional hazard inherent in the occupation, namely, detection. In spite of all these commercial details, it needs no argument to convince the public at large that large quantities of foreign liquors find their way into the United States day after day. Once a ship-

ment is landed the next link in the chain is soldered, the transportation link. Motor trucks meet the shipment and distribute it to the wholesale bootleggers, who in turn sell the liquor in small case lots to the retailer, who in turn transports the same in ordinary automobiles and vehicles to the consumer. One can buy everything from the rarest of French wines and Russian Kümmel to Scotch whiskey. Ships have been known to leave Vancouver chartered for Mexico with a load of liquor, and return to Vancouver, having delivered their cargo, in twenty-four hours. Are Portland and Seattle in Mexico or in the United States?

Collaterally with the smuggling of liquor, which is illegal, there has developed the so-called legitimate import trade of essences. In a first-class grocery store one can buy the essence of crème de mint, benedictine, crème de cocoa, vermuth, scotch mash, chartreuse, sloe gin, etc. A few drops of essence, a little grain of sugar, a dash of pure ethyl alcohol, and the monks of Pavia would marvel at American chartreuse and benedictine. Practically all liquors from Martini to Kümmel are imported into the United States after they have been dealcoholized. When landed from Italy, Spain or France they contain one-tenth of one per cent by volume of ethyl alcohol. Of course one is not supposed to add alcohol and serve—if one does, that's not the importer's concern!

There are imported also quantities of foreign grape juices. France, or Spain, or Italy will drop into your cellar a cask of genuine grape juice of its finest quality and all you need to do is to let a little air into the cask if you like a kick in your grape juice. Is aerating grape juice a crime? I do not know.

The same procedure, with the ex-

ception of the ship, is followed in smuggling across the border of Canada and Mexico. For traffic between Canada and the United States, and Mexico and the United States, every possible conveyance is used by the smugglers, from the saddle bags and diamond-hitch of the ranchman to specially built automobiles. The liquor thus imported into the United States is commonly designated as "good liquor." That is to say, it was manufactured from genuine materials and intended at the time of manufacture to be used for beverage purposes. It contains no latent, deleterious substances. It is often fresh and raw, particularly the Scotch.

At this point it might be well to know what is defined as "good liquor." We use "liquor" here as synonymous with whiskey. Genuine whiskey is a spirit distilled from a grain mash and aged at least three or four years in charred oak barrels, containing from forty-seven to fifty per cent by volume of ethyl alcohol. There are some slight modifications of this definition, but they have to do more with the barrels used for ageing and the special ways of rectification than with the substance used or its alcoholic content. The important thing to note is the period of ageing and the alcoholic content by volume. The word "whiskey" comes from the Celtic *uisgebeatha* which later became *usquebaugh* and means "water of life." At the Feast of Cana the water became wine. Nineteen hundred years later, the "water of life" became the "Block-and-Fall" of the bootlegger. Legitimate whiskies contained from forty-five to sixty per cent by volume of ethyl alcohol, and before prohibition they were frequently reduced so as to contain from seventeen to twenty-four per cent.

The persons engaged in this specialty of the bootlegging profession have the

greatest contempt for the redistiller or "recooker" as he is commonly known. He is a pariah in their eyes. Not because he makes a competitive product but for alleged humanitarian reasons. The smuggler considers himself a benefactor to society for he assumes that people will drink, and that he is the only purveyor of "good liquor," and therefore saves society from what is commonly called "poison liquor."

#### REDISTILLATION

It is not unlawful in the United States to manufacture, possess or deal in grain alcohol or denatured alcohol for manufacturing and industrial purposes, provided one has a permit to do so. The Volstead Act sets up in addition to the basic permit or license a withdrawal permit system whereby permittees can withdraw a given quantity of pure alcohol on each withdrawal permit. The total amount withdrawn by any permittee varies with the size of the bond he has given to the Federal Government pledging its legitimate use. While tremendous quantities of pure grain alcohol are thus withdrawn, the cumbersomeness of obtaining it and its cost drives most bootleggers out of this class into the denatured alcohol field. Anyone can secure a permit to use denatured alcohol.

There are two kinds of denatured alcohols—completely denatured and partially denatured or "specially" denatured alcohol. We need pay little or no attention to completely denatured alcohol. Denatured alcohol is ordinary grain alcohol denatured by adding certain foreign substances in accordance with government formulae. Completely denatured alcohol is rarely used in the bootlegging industry because it is so difficult to extract the denaturant. The so-called "specially" denatured alcohols are the ones that

are most frequently used. Experience has shown that the denaturants most commonly used are isopropyl, quinine, brucine, diethylphthalate and or nicotine and methylene blue. Alcohol denatured with any one of these, with the exception of isopropyl, which is in itself a higher form of alcohol, is easily distilled off. One has simply to boil the denatured alcohol and condense the vapor passing over and one gets a more or less pure grain alcohol. To this is usually added caramel or prune juice for coloring purposes.

To make rye whiskey a greater amount of caramel is added than to make Scotch, for the larger the amount of caramel the deeper the color. It is then necessary to add flavor because whiskey, in addition to alcohol and coloring, has an unique flavor and bouquet. This in legitimate whiskey comes from the storing and ageing of whiskey in what is commonly known as "the wood." In the wood a certain amount of genuine amyl alcohol or fusel oil is generated and this adds flavor to the spirits. The charred oak barrels give the woody taste to Scotch and some Rye whiskeys. The redistiller or "recooker" cannot wait two or three years for genuine fusel oil to be generated or for a genuine wood flavor to be added. He gets the flavor by charring wood and, if unscrupulous enough, adds a drop of fusel oil. There are other flavoring materials used. What they are it is often impossible to detect.

The redistiller works as quickly as possible, both for the reason of making a profit and avoiding detection. Often in one night the denatured alcohol is redistilled, colored, flavored, bottled, labelled and shipped. May I at this point call your attention to the definition given above of legitimate whiskey. Age is an important factor in the making of genuine whiskeys. Speed is the

*sine qua non* of bootleg whiskey. Even if chemically pure they are often crude combinations of alcohol and the other materials mentioned, but the alcoholic content ranges up to ninety-seven per cent by volume. This amounts to drinking practically pure grain alcohol.

The Federal Government has eighty special denaturing formulae, and six complete denaturing formulae. The bootlegger uses specially denatured alcohol, and the chief formulae which are abused are the so-called formula No. 4, nicotine and methylene blue; formula No. 39, isopropyl in combination with alkaloide salts, quinine and brucine; formula No. 39-B, diethylphthalate, and formula No. 40, brucine. If you have been asking yourself the question why denatured alcohol is used for bootlegging purposes rather than grain alcohol, the answer is the government tax of \$4.18 per gallon on grain alcohol. The present market price of grain alcohol at the distillery is \$4.60 per gallon, and the price of specially denatured alcohol at the distillery is fifty cents to ninety cents per gallon. Have you been asking yourself another question: Can anyone buy denatured alcohol? The answer is yes if he has a permit. Permits are not difficult to obtain from the Federal Government, provided the applicant shows a use requiring denatured alcohol. This has given rise in large cities to many new barber supply houses, cigar and cigarette makers, perfume and lotion manufactures, soap makers, varnish and furniture polish makers, extract makers, and what not.

Very often the redistiller or "recooker" does not get behind the camouflage of a legitimate industry. It is much cheaper and easier to rent a garage or a small private dwelling, and for a few thousand dollars set up a complete redistillation plant without

disguise. Such persons are known in this state as "cookers." They do practically nothing but recook the alcohol and deliver it to shopkeepers of such places as saloons, restaurants, cigar stores, lunch counters, lunch wagons, etc. The shopkeeper gets the recooked alcohol and flavors and colors it in accordance with his own prescription. Frequently he adds only a little prune juice or a few spoons full of good whiskey. Good whiskey to-day is used more as an essence than as a beverage. The product is then ready for sale to the consumer in pints, half-pints, quarts or simply a drink.

From the sociological or physiological point of view this is the worst phase of the bootlegging profession. It is by all odds the most extensive and it distributes to the consuming public a vastly inferior and deleterious product. The persons who practice in this specialty of the bootlegging profession are even harder to reach than the smuggler. Of course it is easy to arrest the common laborer tending the boiler attached to a still, or the janitor caring for the building, but the aim of society should be the apprehension of the "higher-ups." It is often impossible to catch the "higher-ups" because the permits are taken out in the name of some company or other, and the permittee does not take delivery of the product, but by a special arrangement with the "bonded" drayman or his own drayman, has the product delivered from the denaturing plant to the recocking plant without ever touching the alcohol. Consequently when the police raid the establishment there is frequently no one around, and if there is someone around, he is usually seated at a corner window or back door and makes his escape. The garages and dwellings are rented under fictitious names and little or no clues can be

gathered from the leases. Much has been said about poison liquor. That there is some there can be no doubt, but it is a rare case where metallic or alkaloidal poisons are found in solution upon analysis.

Whiskey is not the only liquor manufactured by redistillation. I know of one redistilling plant that was equipped to supply every form of liquor and cordial. I believe the owner is now resting quietly in jail.

Denatured alcohol, recooked, colored and flavored as above described and bottled in the bathtub is not fit in my opinion for beverage purposes. Is there much of this going on? Let a government expert testify. He says 87,000,000 gallons of grain alcohol were distilled in 1925. Six million gallons went to physicians and hospitals, and the government takes credit for 100 per cent on that item. Eighty-one million gallons are supposed to have been denatured for industrial purposes. But between the consumption for industrial purposes and the release, the government loses at least ten million gallons. What happens to this alcohol? Guess!

#### THE DOCTOR AND DRUGGIST COMPLEX

Under the third heading we shall consider the doctor and druggist complex. The Volstead Act and Liquor Enforcement Acts do not prohibit the prescribing of intoxicating liquor for medical purposes. Doctors are permitted to withdraw six quarts of whiskey and five gallons of alcohol per year for laboratory purposes. In addition, every physician who has a permit is given a pad of blank prescriptions numbered from one to one hundred. He can use the entire pad in ninety days, but must not prescribe more than one pint of whiskey, or one quart of wine to any one person every ten (10) days. When the emergency for



prescribing intoxicating liquor arises, is left to the integrity of the physician. How often the physician is his own doctor and patient is difficult to ascertain. I have heard it said that if one suffers from a chronic "thirstites" there is no friend like a doctor. There have been a few cases where the ethics of that noble profession have been violated, but no indictment can be drawn against the profession. Druggists have gone a little further. They have frequently sold liquor without any prescriptions or on fake prescriptions knowing them to be so. The liquor thus sold to the consuming public is usually "good liquor." Those who can afford to pay the price buy the liquor as it comes from the government bonded warehouses; others who cannot afford to pay the price buy it as diluted by the bootlegging druggist.

#### BREWING HIGH POWER BEER

The brewing and distillation of malt liquors containing more than one-half of one per cent by volume of ethyl or grain alcohol is also another special field. The manufacture of malt liquor on any scale requires a large investment of capital and a large plant. This business is facilitated by the fact that the Volstead Act and many other state acts provide that it shall not be unlawful to have in one's possession beer of a higher alcoholic content than one-half of one per cent during the process of manufacture. During the trial of cases of this character it is often found impossible to determine when the process of manufacture ceases. Usually, when the raid is made on a brewery, the beer is in the process of manufacture and when it is about to be distributed as a completed product the raiders are not present, or in some cases they have eyes but they see not. The same problem of distribution of high power beer arises as in all other

cases and the subterfuges are many. The barrels are frequently labeled with large labels reading: "*Cereal Beverage, less than one-half of one per cent.*" This satisfies the conscience of the drayman. An analysis shows very often that the beer contains from a fraction of a per cent to about six per cent by volume of ethyl alcohol. Bottles of beer are delivered in sugar barrels, paper cartons, rag-bags and market baskets. When carload lots of beer are shipped it is often necessary to bring into the conspiracy train crews, switchmen and locomotive engineers. In some cases the last mentioned are innocent victims of the plan.

The brewers feel that they have been discriminated against and they have at last found a champion. In fact the goddess Ceres is in the fray. Why should it be lawful to make non-intoxicating fruit juices and not non-intoxicating cereal juices? If the Federal and state governments are prepared to say that whether or not a fruit juice is intoxicating is a question of fact, why be arbitrary about cereal juices? This, of course, makes martyrs out of the brewers and bolsters their consciences. They consider themselves as benefactors of society for the same reasons as the smugglers.

#### ACCESSORY STORES

There are some crimes that make accessories before and after the crime subject to punishment. The liquor laws provide no such crimes and penalties. In many sections of large cities there are those whose business consists entirely of selling apparatus and material for home brewing. One can buy very openly everything from mash to bottle stoppers and caps. It is an education in the art of making liquor to look into the windows of such a store. It contains every conceivable object that might be employed in the



manufacture, distillation, brewing, bottling, barrelling and preserving of intoxicating liquors. Ostensibly the object of these stores is to enable the housewife to make catsup or rootbeer. If sometimes the catsup turns to brandy and the "root" drops out of the beer, that's a happy accident.

#### HOMEMADE BREWS

This leads us to our last specialty—homemade wines, cider and cordials. It is not unlawful to possess intoxicating liquors in one's *bona fide* private dwelling, used as such, provided it has been lawfully acquired before prohibition. It is not unlawful to make non-intoxicating fruit juices in one's private dwelling, used as such. The so-called "private dwelling" has become a haven for private bootlegging. It is true that a man's home is and should be his castle. In the trial of these cases it often becomes necessary to determine what is a private dwelling, and what is a non-intoxicating fruit juice. Is an ordinary six-rooms-and-bath-house, in which liquor is stored in close proximity to a saloon, and from which liquor in small quantities is drawn off for sale in the saloon, a private dwelling? If a man is engaged in a restaurant business and leases a dwelling several blocks away from the business and stores wine and liquor in the cellar, and puts a table and bed in the other parts of the house, is that a private dwelling? Does a person who resides in a private dwelling and who presses grapes and lets nature do the rest, occupy a winery or a dwelling, or both? As was stated above, it is not unlawful to manufacture grape juice, but is it unlawful to permit grape juice to become a wine? There is a great diversity of opinion about this. It is not unlawful for a person legally in the possession of intoxicating liquor in his private dwelling to give it to his *bona*

*fide* guests. If a man occupies a store and dwelling and a customer drops in to buy a cigar, and the proprietor invites him into the kitchen for a glass of wine, is the customer a *bona fide* guest? These are some of the questions that arise in the homemade wine and cordial violations. Wines are made from grape fruit, dandelion, rhubarb, elderberries, blackberries, cherries and pineapple; and brandies are made from cherries, peaches and apricots. It takes the skill of a botanist to determine what is a fruit and what is not. Must persons, who before prohibition never violated any law, be classed in the criminal class if they make any of the foregoing products? It seems to me that if America is returning at any point to home industry it is in the field of intoxicating liquor.

I have said nothing about the seepage of sacramental wines into non-sacramental uses. That some of it escapes can be easily demonstrated, but fortunately it cannot yet be dignified as a specialty in the profession of bootlegging.

#### SCOPE OF BOOTLEGGING

At this point it might be interesting to consider the scope of the profession of bootlegging in a community such as Philadelphia. Beginning with the year 1919, the era of prohibition, the Police Department of the City of Philadelphia made the following number of arrests for intoxication, intoxication and disorderly conduct, and habitual drunkenness. Intoxication and disorderly conduct are very closely allied. There seems to be an ancient historical precedent for this crime. In Genesis IX: 20, 21, we read the following:

And Noah began to be an husbandman, and he planted a vineyard;

And he drank of the wine, and was drunken; and he was uncovered within his tent.

This might also be classed as the first case of drunkenness and indecent exposure.

It is interesting to note that all this occurred after a sea voyage, and perhaps the sailor lad comes by his land spree through heredity.

The statistics of the Police Department, beginning with the year 1919, follow:

| 1919                                     | Total  |
|--|--------|
| Intoxication.....                        | 16,819 |
| Intoxication and disorderly conduct..... | 6,794  |
| Habitual drunkards.....                  | 127    |
|  | 23,740 |
| 1920                                     |        |
| Intoxication.....                        | 14,313 |
| Intoxication and disorderly conduct..... | 6,097  |
| Habitual drunkards.....                  | 33     |
|  | 20,443 |
| 1921                                     |        |
| Intoxication.....                        | 21,850 |
| Intoxication and disorderly conduct..... | 5,232  |
| Intoxicated drivers.....                 | 494    |
| Habitual drunkards.....                  | 33     |
|  | 27,609 |
| 1922                                     |        |
| Intoxication.....                        | 36,299 |
| Intoxication and disorderly conduct..... | 7,925  |
| Intoxicated drivers.....                 | 472    |
| Habitual drunkards.....                  | 50     |
|  | 44,746 |
| *Not classified previous to year 1921.   |        |
| 1923                                     |        |
| Intoxication.....                        | 45,226 |
| Intoxication and disorderly conduct..... | 8,076  |
| Intoxicated drivers.....                 | 645    |
| Habitual drunkards.....                  | 177    |
|  | 54,124 |
| 1924                                     |        |
| Intoxication.....                        | 47,805 |
| Intoxication and disorderly conduct..... | 6,404  |
| Intoxicated drivers.....                 | 683    |
| Habitual drunkards.....                  | 874    |
|  | 55,766 |
| 1925                                     |        |
| Intoxication.....                        | 51,361 |
| Intoxication and disorderly conduct..... | 5,522  |
| Intoxicated drivers.....                 | 820    |
| Habitual drunkards.....                  | 814    |
|  | 58,517 |

It is hard to believe that during the year of 1925 there were more than a thousand arrests per week in Philadelphia for the above described offenses. For the month of January, 1926, there were the following number of arrests for the aforementioned crimes:

| 1926                                     |       |
|--|-------|
| Intoxication.....                        | 3,466 |
| Intoxication and disorderly conduct..... | 362   |
| Habitual drunkards.....                  | 14    |
| Intoxicated automobile drivers.....      | 39    |
|  | 3,881 |

The District Attorney's office of Philadelphia County has statistics of the seizures of intoxicating liquors and property used in the manufacture and transportation of liquor from November and December, 1923, and for the years 1924 and 1925. From November 1, 1923, to December 31, 1924, the Police Department of the City of Philadelphia made and delivered to the District Attorney 6308 seizures of liquor and property used in the manufacture and transportation of liquor. When I tell you that these seizures vary from a milk bottle to a freight car or cars, you will have some idea of the complexity of handling the situation. For the same period of time the Police Department seized 538 vehicles, or a total of 6846 seizures.

For the year 1925, the police made and delivered to the District Attorney 8146 seizures of liquor and property, and seized 323 vehicles, or a total of 8469 seizures.

For the year 1926, up to February 15, the police seized and delivered to the District Attorney 1224 seizures of liquor and property, and seized twenty-five vehicles, or a total of 1249 seizures.

The District Attorney has been forced to rent a five-story concrete building—a garage and warehouse—containing approximately 600,000 cu-

bie feet. The liquor staff handling only the condemnation of liquor, etc., is more than twice the staff doing all other kinds of work.

For the year 1922 there were 658 bills of indictment found true, giving rise to 592 cases for trial for liquor violations. For the year 1923 there were 893 bills found true, giving rise to 760 cases. For the year 1924 there were 4156 bills found true, giving rise to 3274 cases. For the year 1923 there were 469 convictions and total fines of \$17,580, to which must be added \$2758.40 for costs imposed, or a total of \$20,338.94. There were eighty-seven prison sentences imposed, totaling thirty-one years, nine months and eighty days. For the year 1924 there were 1541 convictions, 1002 cases otherwise disposed of, total fines imposed of \$81,582.00, and costs of \$19,192.50, or a total of fines and costs aggregating \$100,744.50; and there were 247 prison sentences imposed, totaling sixty-six years, seven months and thirty days. For the year 1925 there were 3756 bills found true, giving rise to 3014 cases. There were 995 convictions and 1227 cases otherwise disposed of. Total fines and costs were \$75,834.92. There were 194 prison sentences totaling forty-two years, eleven months and seven days. It is harder to obtain a conviction in a liquor case than in any other case. In the words of old Samuel Butler:

Do not your juries give their verdict  
As if they felt the cause and not heard it?  
And as they please, make matter of fact,  
Run all on one side, as they're pack'd.  
We draw no conclusion from these

figures; that is entirely up to you.

Has the profession of bootlegging contributed to any other forms of crime? We will answer this affirmatively without much discussion, because this article is running away from us. Experience has shown that it has contributed to the stealing of automobiles, the defacing of motor numbers, reckless driving, "hit and run drivers," and juvenile delinquency both in drinking and in transportation. It has made the bawdy house an additional speak-easy, and men have been known to visit the bawdy house without any other purpose or intention than to secure a drink.

The hijacker, the bandit, the gunman, the briber, the extortioner have found a fertile covey. Bootleggers are rich and need protection against the police and other bootleggers. A truck load of alcohol is worth its weight in gold.

No attempt has been made in this discussion to describe all of the methods used by violators of the liquor laws. We have confined our attention to the strictly professional class and to that border line class of home brewers and distillers. We draw no conclusions as to whether or not prohibition is a good or bad thing for the community; whether it is enforceable or not enforceable, or whether it has made for more or less use of intoxicating liquors. Our purpose has been simply to describe the "Profession of Bootlegging" with its results on city life and police administration. We have endeavored to prove only one thing, that the infant of six years is a husky babe.

## Irregular Practices in Building and Loan Associations

By WILLIAM D. GORDON, PH.D.

Deputy Secretary of Banking, Commonwealth of Pennsylvania

THE closing of seventeen building and loan associations undoubtedly has brought to the fore the important part played by these associations in Pennsylvania. By glancing at the statistics enumerated below, one is impressed by the potent influence exerted by these associations as instrumentalities for thrift among the people.

In 1893 there were 5598 building and loan associations in the United States with assets of \$473,137,454 and with a membership of 1,359,366; and during the year of 1908-09 the number of associations was 5599 with assets of \$784,175,753 and the membership was 1,920,257. In December, 1924, there were 11,844 such associations with assets of \$4,765,137,454 and a membership of 8,554,352. Of these associations, 4300 were in the state of Pennsylvania and approximately 4000 in the city of Philadelphia. Thus, it will be seen that approximately one-third of the associations of the United States are in Philadelphia. Furthermore, the assets of these Philadelphia associations aggregate more than a half billion dollars.

Unquestionably the great importance of building and loan associations as factors for saving has been more or less discounted because of the fact that meetings have been held in small lodge rooms or public halls with no pretentious buildings to stand forth as monuments of their financial strength. These associations have grown by leaps and bounds until to-day, especially in Philadelphia, they are firmly connected with the home life of the people. The underlying idea in connection with a

building and loan association is to afford individuals opportunities of saving or borrowing money at a reasonable rate of interest. While it is often impossible for an individual to effect a loan, he, as a member of a mutual association, generally can borrow a given amount of money from the association. A person desirous of purchasing a home is confronted by the obstacle of raising the necessary funds, and by the problem of repayment of the loan within a relatively short period. In most cases he does not have sufficient collateral to offer as security for a loan from a bank. He may, however, as a member of a building and loan association, procure the funds for the purchase of a home, and be given an extended period over which to systematically repay the loan, together with the interest. Through such a medium a person of small resources may eventually become an owner of real estate. A relatively small number of persons joining building and loan associations for the purpose of "clearing their homes" fail to attain their goal, for the urge to become a home-owner helps them to carry on despite discouraging financial reverses.

Building and loan associations also prove attractive to persons who do not become borrowers, since they provide a plan for regular saving with a good rate of return. In addition to private benefits to be derived from building and loan associations, it will be recognized that they also prove a public benefit. They exert a definite effect on communities, for the purchase of a home generally results in good citizenship and in the raising of economic and



social ideals. Herbert Hoover, Secretary of Commerce, effectively stated the case in the words: "A man will fight for his home, but not for his boarding-house."

The Pennsylvania Department of Banking is vitally interested in the welfare of building and loan associations, and sees no reason for widespread alarm because of the state's recent seizure of the seventeen associations. The principle upon which building and loan associations have been founded is a sound one, and the violation of it by certain associations should not break the faith of the people in a plan which has enabled countless numbers to become home-owners.

#### IRREGULAR PRACTICES

As in every other institution, there are certain officers and directors, and persons in collusion with them, who will stoop to depart from regular and legal practices. Some of these irregular practices encountered by the Department of Banking may be mentioned and discussed briefly. The first nefarious practice that should be stated is that of exceeding the borrowing capacity of an association. The law of Pennsylvania prohibits an association from borrowing to an amount in excess of twenty-five per cent of the withdrawal value of the stock. Many cases have been encountered in connection with regular and special examinations of the books where this limit has been greatly exceeded. Cases are numerous where associations have been found to be one hundred per cent overborrowed. Such a condition is attributed to two reasons. In the first place, the officers of the association either do not bring to the attention of the directors and have recorded in the minute book the fact that the loan to be negotiated will cause the total amount of borrowed money to be in excess of the borrowing

capacity, or they falsely represent to the directors that the amount of money borrowed, including the loan under consideration, is within the legal limit. Secondly, banks from whom associations borrow often do not require a resolution properly signed, setting forth that the association is within its borrowing capacity. As a result loans have been granted by banking officials which never would have been approved had the proper records been demanded of the association.

A second irregular practice which has been uncovered is that in connection with the issuance of Full Paid Stock. Many associations have used Full Paid Stock as a subterfuge for borrowed money. For example, when an association has borrowed to the extent of twenty-five per cent of the withdrawal value of the stock, and therefore legally is not in a position to further borrow, it sometimes issues Full Paid Stock to procure the desired funds. The law, however, does not classify these funds as borrowed money, and, as a result, many officials have taken advantage of this situation. It should be stated that this condition of the law has further mitigated against rigid control over borrowed money in that an association may, after the issuance of Full Paid Stock, borrow to the extent of twenty-five per cent of the value of the Full Paid Stock. Thus it will be seen that the law permits of a dangerous system of pyramiding of loans.

In certain associations certificates of Full Paid Stock have been issued to persons, and no entries were made upon the books of the association to indicate the receipt of cash. In one case it was discovered that duplicate Full Paid Stock books were in use. While only one book was shown to the Banking Department on the date of examination, the use of the other was revealed in checking loans at banks. For in-



stance, certificates No. 1 to No. 5 were pledged as collateral at one bank, while certificates of similar numbers were pledged as collateral for loans at a second bank. Of course, the certificates in the second instance were falsely issued in the name of one of the officers, who used them as collateral for the obtaining of funds for his personal account. In connection with the investigation of the seventeen associations it was discovered that at the pleasure of the officers these certificates were issued and used as the basis for obtaining large sums of money.

Another practice that has been giving the Department of Banking considerable concern is that in connection with the accounting methods employed by the officers of many associations. The law does not give the Banking Department authority to prescribe the accounting system for building and loan associations. Since most secretaries have not been trained in accounting methods, their records, as a whole, are poorly kept. Furthermore, a secretary, as a rule, has other employment and consequently regards the building and loan work as a side line. While he is unwilling to give up the position, he maintains that he cannot devote the required amount of time to the books. Under such circumstances many officials, either of their own volition or through ignorance, do not record all of the necessary facts upon the books. The practice of willfully omitting data from the books was revealed by an examination of the records of the seventeen associations. After the Department had issued formal orders asking the officers to show cause why the associations should not be taken possession of, the books and records were seized with a view to liquidating the affairs. In the preparation of schedules of liabilities, it was ascertained that thousands of dollars in notes of the associa-

tions were outstanding which had never appeared on the books in the names of the original holders of the notes. Many of these notes had been discounted at banks, while others had been disposed of through note brokers, and still others were in the possession of individuals. As was mentioned previously, in many other associations the absence of essential records often is due to ignorance of accounting methods.

An examination of the seventeen building and loan associations also brought to light the fact that officers of the associations issued, under the seals of the associations, false financial statements for the purpose of procuring loans. Instances are many where accounts on the statements were greatly in excess of those on the books. Two items, in particular, namely "Mortgage Loans" and "Due Shareholders," were variously raised to set forth a prosperous condition. The statement of one association showed mortgage loans of \$55,000.00, while the books showed \$9,000.00. Usually accompanying such false statements were resolutions, signed by the proper officers, certifying that the building and loan associations were within their legal borrowing capacities.

A dangerous practice resorted to is that of overloaning on property. Examples are prolific where the first and second mortgages total amounts often several thousand dollars in excess of the fair market value of the properties. When the properties of the associations previously referred to were appraised by the Department of Banking, it was found that the loans were so excessive that the security of the associations was undermined. As soon as the Department ordered the writing of the portion of the loans over and above the appraised value of the real estate against the profits of the associations, conditions of insolvency were encountered.

Doubtlessly these excessive second mortgages were granted by the officers of the associations for the sole purpose of creating a false value with respect to each property in which they were interested. For example, the owner of two rows of properties, valued at eight thousand dollars per house and subject to a first mortgage of five thousand dollars, obtained a second mortgage of five thousand dollars on each premise from a building and loan association. These mortgages served as talking points for the owner, since he could show that he was able to obtain ten thousand dollars' worth of mortgages on each property, therefore each must certainly have a valuation of twelve thousand dollars or more. This vicious practice was made possible because the party obtaining the money was more than willing to pay a bonus to the officers of the association, who were satisfied to thus hazard the association's funds. Obviously it was worth while for an owner to pay an enormous bonus for loans of this character, since, because of the false impression created by the mortgages, he generally was able to sell his properties at enhanced figures. Furthermore, the owner usually could assure the buyer of the continuance of the huge mortgages in the building and loan associations. Properties purchased under these conditions often prove to be unprofitable investments for an association. In the event of the failure of the owner to pay the interest and the amount due on a mortgage, the association, generally through foreclosure proceedings, will have in its possession a property worth considerably less than the value of the mortgages. A number of instances of this kind inevitably result in the failure of the building and loan association.

One of the problems that ever confronts the Department of Banking is that of detecting peculations. Fre-

quent discoveries are made of misapplications of funds. Cases have been found where, for considerable periods of time, secretaries and treasurers have been using building and loan funds for private purposes. This practice invariably is turned up by the examiner, for whenever the peculator is able to procure the needed funds, he will, on the day the Banking Department is conducting the examination, make a deposit to the account of the association. As soon as a statement is obtained from the bank the examiner readily will note that the deposit does not represent the amount received at the last monthly meeting of the association. Upon cross-examining the involved officer it generally is learned that he has been systematically withholding association funds for his private transactions. Often where such discoveries are made, the peculator is unable to pay back the funds and is confronted with an actual cash shortage. Shortages ranging from a few hundred dollars to many thousands have been found. This condition can largely be attributed to the lack of a proper checking system on the part of the building and loan officials. The handling of cash should be restricted to the treasurer, and the secretary should be obliged to check the records of the treasurer and the monthly bank reconciliation. A monthly report should be required of the treasurer by the Board of Directors. Furthermore, the annual audit by the so-called auditing committee, selected by the president, often makes possible dishonest practices. As a rule the members of the auditing committee know nothing about accounting, and, instead of making a dependable audit, they merely express approval of the data handed them by the secretary and the treasurer. Until the officers of building and loan associations learn the value of an

audit by experts, many dishonest practices will prevail during the interval between departmental examinations. At best, due to the great number of associations and to the limited force of examiners, it is impossible for the Department to examine each association more than once in eighteen months.

When the Department determined to liquidate the seventeen associations, it found that invoices for taxes, water rent, interest, etc., on first mortgages on the properties on which the associations held second mortgages, were falling due from time to time, with the result that foreclosure proceedings were being instituted by holders of the first mortgages. The Banking Department was unable to prevent the foreclosures as it was without funds for the carrying along of the properties until such time as they might be disposed of at favorable prices. To obviate the wholesale sacrificing of values, a plan for the liquidation and rehabilitation of these associations was presented by a committee of the creditors and stockholders. After a careful study changes were demanded and were immediately made. Finally the Secretary of Banking requested that evidence be produced to show that this plan was desired by substantially all of the creditors and stockholders of the associations. This evidence was manifested by the presentation of a petition containing the signatures of the parties concerned, and the plan was ratified by the Secretary of Banking. This plan, as approved, provides for the raising of a fund to meet the necessary expenses in connection with taxes, water rent, interest, etc., on first mortgages, and for the gradual liquidation of sixteen of the associations. The seventeenth association, which is the strongest of the group, is to be used as a basis for a rehabilitation plan. Since the plan has just been put into practical opera-

tion, no prediction can be made as to its ultimate success.

The taking over of the seventeen associations by the Department of Banking has proved an excellent tonic for the other associations. It also has taught stockholders to inquire into the management of their associations. The successful prosecution of the parties responsible for the wrecking of these associations has pointed out to officers who are violating their sacred trusts what the Banking Department has in store for them. It has demonstrated to banks the necessity of analyzing financial statements presented by the officers of building and loan associations and of insisting upon resolutions of the Board of Directors, properly signed and sealed, for the authorization of each loan. Finally, it has demonstrated to the public the sincere intentions of the Department of Banking to protect to the utmost the interests of the stockholders of the building and loan associations of Pennsylvania. In this connection it may be of interest to mention a few of the safeguards recently adopted to continue to keep building and loan associations on the high plane on which they rightfully belong:

#### SAFEGUARDS ADOPTED

(1) Whenever a group petitions for a building and loan charter, a hearing is called to determine upon the character and ability of the officers and directors, and the need of an association in the neighborhood. Only where there is a real need, as determined by a study of the vicinity, will a favorable recommendation for the granting of letters patent be forwarded to the Governor.

(2) In October a new system of examination was put into effect whereby all examiners pursue definite and standard methods of checking up on the organization, the management, and the financial status of each association. A rigid examination also is made to determine whether or not the

officers and directors have complied with all phases of the banking laws.

(3) A copy of the criticisms made by the Department is forwarded, after each examination, to the Board of Directors. Within a specified period the irregularities must be corrected and detailed answers to the criticisms, signed by each director, must be filed with the Department.

(4) Appraisements are being obtained on all properties of which the Department has doubts concerning the safety of the loans. The amounts in excess of the fair market values must be written against the profits, or satisfactory collateral must be deposited with the Department by the association.

(5) Whenever serious irregularities are found, hearings are held with the Board of Directors, with the result that practices which eventually might lead to insolvency are corrected in their incipency.

(6) A classification system has been effected whereby the Department will be able to follow up, by frequent examinations, the poorly managed associations. A great number of associations will thus be salvaged while others which are not susceptible to improvement will be taken over by the Department, as provided for by law, before serious losses result.

The task of the Department of Banking to protect almost one billion dollars of assets, owned by about two million stockholders in approximately forty-four hundred associations, is a tremendous one. Only by adequate appropriations by the Legislature will it be possible for the Department of Banking to maintain a staff required to safeguard interests so vital to the home life of our state.

## The Fight on Stock Swindlers

By H. J. KENNER

General Manager, The Better Business Bureau of New York City, Inc.

**B**USINESS men are now taking a hand in checking the "rising tide of crime" and the "growing disrespect for law." While one national group is studying the problem of curbing crimes of violence, others locally and nationally are continuing action against the white collar bandit, the gentleman thief who steals the savings of the uninformed or the gullible by stock-swindling and fraudulent brokerage practices.

Such gentry have an appearance and a *savoir faire* which are the envy of night prowlers who use nitro-glycerine or a blackjack to get results. But they lack the physical courage of their heavy-handed brother crook; they are a much more despicable lot. They have to some extent fled before the drive against them which has gone forward in many leading states and

cities of the country, where government and business have joined hands to stop their depredations.

The money loss caused by the white collar bandits is each year many times that resulting from crimes of violence. The direct loss of life is less but the despair, suffering and death which follow the stock swindler and bucketeer take a larger toll than the other forms of crime. Besides such casualties, the wrecked lives and ruined faith of men and women are cumulative in their destructive effect—traceable in economic, social and political conditions.

There are three outstanding perils due to stock swindling: (1) The first is money loss sustained by the citizen who can ill afford to lose. (2) The second is peril of suspicion and lost confidence bred of experiences with unscrupulous operators and ignorance of investing.



(3) The third is the peril of prejudice and destructive radicalism spread by high-pressure salesmen who in their securities-selling talk inveigh against legitimate business and the present system of finance.

In its efforts to protect uninformed investors, the Better Business Bureaus, which are now established in forty-three principal cities of the country, have declared unremitting war on stock swindlers and have developed well organized assistance for state and Federal authorities who can proceed under penal or regulatory laws.

#### ACTUAL WORK OF THE BUREAU

At the beginning of its work about three and a half years ago, the Better Business Bureau of New York City found that bands of professional promoters with unsavory records had taken advantage of the public's sudden interest in radio and were ensnaring enthusiastic people by offerings of stock practically worthless. The Bureau investigated and took action which resulted in keeping that new industry comparatively free from the odium of stock swindling which has marked the infancy of other leading industries. One such quarry had high-power salesmen who attempted to unload several million dollars of securities on an eager public. This company, the International Radio Corporation, was stopped in its plans by facts made public in a Bureau bulletin. The concern was forced into bankruptcy by its stockholders and the chief promoter has not since attempted anything on nearly so vast a scale. At the time, he brought a libel suit against the directors of the Bureau for a half million dollars and summoned the Bureau's manager to court on a criminal libel charge. But these gestures fell under the weight of facts which had been carefully developed. Another radio promotion used

a "subscription rights" certificate to sell its stock to shareholders of record in several well-established companies whose names were linked in the public mind with that of the Radio Corporation of America. This enterprise adopted the name, "Radio Products Corporation of America," which led many people to send checks because they thought it was a subsidiary of the well-known company.

Another system of snaring the gullible, which was brought to New York by an enterprising Westerner, has been combatted vigorously at New York. Certain dealers used the mails to send "Special Subscription Privilege" certificates to owners of Ford cars to permit them to purchase "bankers' shares," or "American Units" in the Ford Motor Company of Canada, Ltd. One hundred such units were issued against one share of the Canadian company and were sold at \$6.00 each, to yield the dealer \$600.00 at a time when he paid only \$450.00 per share for the Ford stock in the market. The Better Business Bureau of New York City issued public statements warning the people of the country against these deceptive certificates, and later, the Attorney General of New York State proceeded against them under the Martin Securities Act, which is the anti-fraud statute being used with good effect in New York State.

The Bureau also helped the United States Government to break the backbone of "blind pools" or participating syndicates which were soliciting sums of from fifty to several hundred dollars from the general public and pretending that they were playing the market on a large scale and making big profits to distribute to the pool participants. Following the arrest and indictment of principals in several of these schemes, who were later convicted by the Federal Government, eight such firms in



New York and other eastern cities closed their doors.

"Reloading" has always been a favorite pastime of the high-pressure stock salesmen. It is the method whereby the holder of shares in a moribund or struggling new enterprise is prevailed upon to buy additional shares by fake promises of big dividends resulting from reorganization and new corporation activity. The principals of the "Cramer System, Inc.," a large reloading organization at New York, were tried and convicted on Federal mail fraud charges after investigations of the Better Business Bureau of New York had revealed their practices.

What was believed to be the largest remaining bucketshop in this country, G. F. Redmond & Company, Inc., which had offices in Boston, New York and a number of other cities, was made the subject of action by the New York State and the Federal authorities, following the development of facts about the firm's practices by the New York Bureau. Redmond and other principals were given penitentiary sentences, which they are now serving, following Federal trial at Boston.

#### BUSINESS AIDS GOVERNMENT

Legitimate business is massing behind state and Federal departments through the Better Business Bureaus, to carry on a determined fight against stock swindling.

Actions under the Martin law of New York State involved more than sixty firms and individuals during the four months ending February 28, 1926. The Martin Act is a modern statute. It provides primarily a simple civil remedy of injunction against specific acts. In its judicial application there has been a disposition to require the same fraud elements as in a case of indictable fraud brought to criminal

trial—the proof of which may be obtainable, it should be remarked, but which is not necessary in an action devoid of penal consequences. It was intended by the Martin Act to provide a quick method for stopping misrepresentations of stock or ending bucketting operations and similar offences, upon presentation of the prescribed proof. There is a real difference between civil and criminal law requirements.

Last January, after New York State injunctions were brought restraining the practices of various firms which had been operated by Wilfred Wyndham Weese, the Post Office Department caused criminal prosecution to be brought against Weese and an associate for fraudulent use of the mails under the name "Chapman & Company" in New York City. Weese practiced the "switching" game by which a customer is induced to speculate in listed securities, is shown a profit, and is then persuaded to buy shares in an unknown company of little value, which he finds left on his hands. Weese was convicted and sentenced to five years at Atlanta and his associate, John W. Kaari, to one year and a day at Atlanta.

Again the inner lines of the "old guard" of blue sky operators were penetrated by the Post Office Department and the Department of Justice when two veterans, Lewis G. Van Riper and Charles E. Van Riper, were sentenced during January to five years in Atlanta prison for fraudulent use of the mails in stock selling.

The Van Ripers and eight others, including Harry Hedrick, editor of *The Financial Analyst*, were convicted and sentenced to Atlanta for operations in the sale of stock of the Parco Oil Company. For nearly fifteen years the Van Ripers have been engaged in promotional activities based on spec-

ulative, penny-share oil and mining stocks.

On January 5, last, George Graham Rice was indicted by the Federal Grand Jury at New York charged with use of the mails to defraud in the sale of stock in the Fortuna Consolidated Mining Company. With him were indicted Alexander Herman, Moe Herman, Louis Herman, David Lyons, Howard Winter and John Hogan, formerly publisher of *Facts and Fakes of Wall Street*. It is said that he and his associates sold several hundred thousand dollars' worth of this stock at prices ranging from four cents a share to as high as seventy cents. After Rice had been held in bail for trial, he gave reporters a fifteen-page typewritten statement attacking those who, he said, were responsible for his indictment, including the Better Business Bureau.

Reaching into Florida, the Better Business Bureau movement has joined hands with state and local business organizations and with the state and Federal Government to act against frauds which have been preying upon the gullible in northern cities. All sorts of ventures have been predicated on Florida real estate developments and many known stock swindlers have forsaken old haunts to resume their habits in Florida. The result of one investigation made during January, 1926, was the indictment of Charles Ponzi and associates, of Jacksonville, Fla., on charges of violating Florida laws by the sale of investment units in a syndicate to deal in lots in a subdivision near Jacksonville. Better Business Bureau investigations are being continued vigorously within the state for the protection of uninformed investors in all parts of the country, and a staff of well trained representatives of the National Better Business Bureau are now at work there,

co-operating closely with the Florida State Chamber of Commerce and officers of the State and Federal governments.

As a part of its efforts to build a wall of resistance against the stock swindler, a Better Business Bureau reaches the public constantly with facts which show current snares for savings and which also help to enlighten the average man or woman about sound principles of investment money. Not alone do the newspapers of the country co-operate in this important service but also banks, investment bankers, stock brokerage firms and industrial corporations interested in safe-guarding the investigable funds of their employees. Almost every available channel of public information is open to this organized effort to protect the public and almost each one is being used.

#### ESSENTIALS IN FRAUD PREVENTION

To summarize, the fight on frauds depends upon four fundamental factors. These all require that the facts be found first and that they then be translated into punitive and preventive action. These four factors are:

- (1) Investigation of specific practices of individuals or firms to establish facts upon which action is based; such facts to be presented to state or Federal prosecutors for action where criminality is indicated.
- (2) Similar investigation for the purpose of presenting the facts to firms of good repute but whose practices are in error, in order that they themselves may be persuaded to abandon or change wrong practices.
- (3) Facts made easily available to prospective investors before they part with their money; these facts to be concerning questionable or misrepresented individual propositions and,

- (a) In answer to inquiries made direct to a Better Business Bureau or similar agency or supplied by such disinterested, impartial organization to banks, bankers, brokers, newspapers, *et al.*, for distribution to their public.
- (b) In news or special article form reaching the general public, by which readers are put on their guard against specific methods of stock swindling or particular companies or individuals who indulge in such methods.
- (4) Education of the general public as

to the simple processes and fundamentals of investing money soundly.

Fraud and lesser evils in the sale of securities in the brokerage business cannot be fought successfully by one of these methods without the others well co-ordinated. So-called education will not protect unless it goes hand in hand with vigorous prosecution of swindlers, just as such prosecution will not protect fully unless the public is brought to a fuller understanding of the pitfalls of fake finance and of the principles of sound finance.

## The Use of the Mails for Fraudulent Purposes

By HARRY S. NEW

Postmaster General of the United States

THE credulous, like the poor, we have with us always. Or so it would seem from a cursory examination of the appalling records of those whose life savings have slipped into the predatory talons of the human spiders whose only toil is spinning—spinning webs for the unwary.

Because the use of the mails at some stage of the operation of luring prospective victims into the webs is almost a prerequisite to successful fraud, nearly all of the multifarious schemes imposed upon the American public come sooner or later within the purview of the Post Office Department through violation of the postal fraud statutes.

As a result, many frauds, while not strictly mail frauds, are prosecuted as such and so characterized, leaving the impression that the mails are overcrowded with alluring invitations to widows and to that seemingly inexhaustible class, composed of both men and women, who, because of their

proneness to snatch at the bait of get-rich-quick schemes, have been rather appropriately dubbed by the tricksters themselves as "suckers."

As a matter of fact, while certain types of frauds depend almost entirely for their success upon the use of the mails, in a vast majority of cases the use of the postal service for furthering such schemes is merely incidental and often inadvertent.

In many instances shady promoters are painstaking in their avoidance of the mail service, but sooner or later they take that chance which very often provides the government with its only legal weapon available to protect an incautious public from—itself.

For, in the final analysis, it is the very susceptibility of the average person to outside influence, especially when accompanied by glittering promises of immoderate profits, that is largely responsible for the existence of the wolf packs that prey upon them. Without that susceptibility, credu-

lity, or impressionableness, the wolves would soon be starved either into legitimate enterprise or into a more direct form of lawlessness easier to deal with.

Of course there are, and perhaps always will be, predatory individuals with sufficient cunning and guile to delude the most astute and cautious business man. Indeed, few are there either in public life or in the business world who have not more than once fallen victim to some oily swindler with a skilfully laid prospectus.

These stories are seldom told, even to the family at home, for the man with a reputation for sagacity and acumen is loath to advertise the fact that he has permitted a "slicker" to best him. The loss is charged to profit and loss and the loser profits by the determination to be more careful in the future—sometimes.

To this class those charged with the protection of the public are not so sympathetic. The victim usually is able to pocket his loss without untoward hardship because the same sagacity that has won his reputation should deter him from venturing too deeply into new enterprises without adequate investigation.

#### OUR GULLIBLE PUBLIC

It is not so with the unwary small investor who risks all his savings in some glittering venture promising to put him on "easy street" but which all too often plunges him into the gutter of poverty and the depths of despair.

Perhaps the bitterest poverty of all is that which comes to those who have had and lost. To see the fruits of a lifetime of toil and thrift swept away as the result of one moment of misplaced faith in the proposal of an affable stranger is a blow that must be experienced to be realized.

Often, far too often, it is a trusting woman or a widow with sufficient funds

only to provide meagre sustenance for a peaceful old age who falls victim to the suave confidence man.

The most pitiable of all frauds in their results is that practiced by the medical faker upon persons suffering with cancer, tuberculosis, or some other like disease as difficult of cure by drugs. Patients are often lured to their deaths with quack remedy baits. Yet it is these very victims who are loudest in protest against prosecution of their despoilers.

Denied one remedy, they quickly turn to another in untiring search for health. It is this characteristic trait of those who fatten the quackers' till that makes them the most persistent repeaters. Some fakers readily admit the fraud of their "cures" but offer as an excuse the fact that some other charlatan in the same line would catch the sucker, so why not he?

Less serious in the consequence involved is that of the older man seeking youth, and younger men seeking more youth, who literally jump from one rejuvenation cure to another, until the entire field is covered.

"A burnt child dreads the fire" is an old saying that apparently does not apply to the investor. Many of these "investment children" have been seared so often that they must needs be immune to pain. The unscrupulous promoter, recognizing this fact, prefers the "burnt children" and he pays good money for their names and addresses.

"Sucker lists" are marketable commodities and the names and addresses of those who have been victimized repeatedly command high prices from promoters with other kinds of lures to dangle before the eyes of the fake investment fan.

That "millions of Americans annually lose billions of dollars" to the unscrupulous, for which they receive



nothing or almost nothing, there can be no doubt.

#### HELP FROM THE BUSINESS MAN

All of this money is thus diverted from legitimate commercial channels. The honest business man, through the National Better Business Bureau and its affiliated bureaus throughout the country and like organizations, has in the past few years become more active in uncovering his shady rival and helpful in checkmating his plans.

In doing this he not only is assisting in the protection of the unwary but he also is helping to conserve the money lost in questionable ventures for lawful industry, of which he naturally would expect to share.

The Post Office Department is keenly appreciative of this aid in apprehending the mail schemer, but there is plenty of room for enlarging the co-operation.

The sanctity of a sealed envelope in this country has always commanded respect. Post Office inspectors cannot open letters in the quest of fraud and read their contents. Their only source of information and their only clue to questionable ventures must come from the victim themselves or from the recipient of the "come-on" letter.

Often letters that are palpably misrepresentations and designed to deceive, are received by men who recognize their fraudulent character but who, without thought of the possible poverty that might be saved others by reporting to the Post Office Department, consign the missives to their wastebaskets.

There is a fertile field for good missionary work on the part of those whose perspicacity, enabling them to detect fraudulent intentions in such letters, places them in the position of potential protectors for their less intelligent brethren.

#### POWERFUL FRAUD ORDER STATUTES

A powerful weapon is wielded by the Post Office Department for the suppression of mail frauds in the fraud order statutes authorizing the Postmaster General, on evidence satisfactory to him that any individual or concern is conducting a scheme for obtaining money or property through the mails by means of false or fraudulent pretenses, representations and promises, to issue a so-called fraud order against such person or concern.

Such an order bars the person or concern affected from further use of the mails. The postmaster at the office of address is directed to stamp "Fraudulent" and return to senders all mail directed to the person or firm against whom the fraud order is issued.

Because this action immediately stops their income it is often held in greater fear by the fraudulent promoter than is actual prosecution or even prison sentence.

Before the Postmaster General was authorized by Congress to deny the use of the mails to such persons, it frequently happened that the schemes were continued in operation while the case was under trial in the courts and sometimes were even conducted from within the prison walls.

Since March 4, 1923, fraud orders have been issued against 991 persons and concerns who were using the mails to obtain money under false representations. The Department of Justice has worked hand in hand with the Post Office Department, and a comparatively large percentage of those barred from the mails have been prosecuted and sentenced to prison.

#### TYPES OF FRAUDS

The schemes range from simple catch-penny sales schemes to gigantic investment swindles involving millions of dollars.



For instance, a great many women have invested ten cents for ten yards of "beautiful silk for making shirt waists and other fancy things" and received ten yards of silk thread.

On the other hand, quite a few are the men who upon receipt of very confidential communications, written on elaborate letterheads and postmarked from Canada, have invested \$18.00 for "Twelve full quarts of Canadian Rye, the Beverage of our Grandfathers," only to open the package and find the rye was roasted rye grains.

Then there is the case of the veterinary surgeon in Maine who advertised beautiful Angora cats of any color and who shipped ordinary long-haired Maine coon cats dyed the desired hue.

A Tennessean dealt in dogs—hunting dogs that would hunt any kind of game. The dogs were picked up on the streets and given manufactured pedigrees, the same animal sometimes having as many as half a dozen different sets of ancestors, according to the number of times it was returned and resold.

A learned gentleman in the East, operating as a university with a high sounding name, could make a student over night an M.D., an LL.B., or any other degree for a stipulated fee.

In a Western city degrees in a new brand of masonry were offered for sale.

Perhaps the most stupendous in their scope and the amount of money involved, of any fraud schemes, since the Louisiana Lotteries, were the oil

stock swindles conducted in Texas, Oklahoma, Arkansas and Louisiana a few years ago.

So varied and ingenious and far-reaching were these swindles that literally millions of dollars were swallowed up before a concerted campaign of the Post Office Department and the Department of Justice stopped the mails of the swindlers and finally landed them in penitentiaries where a number of them are now serving out long terms.

A study of Post Office Department fraud records brings one to the reluctant conviction that neither fraud orders nor prison sentences are going to entirely eliminate the fraud promoter. So long as he can so readily find dupes upon whom to prey and until the public becomes better educated and learns to pay more heed to warnings, such dupes will be found a-plenty.

As a result of its proneness to invest without first investigating, the American public has been classified as extremely credulous. No one would prefer that this credulity should be displaced by doubt, suspicion and mistrust. Such a characteristic if universal would react to disadvantage to legitimate business. Somewhere there should be a happy medium that would bring the inexperienced in financial matters to exercise greater caution or to seek the advice of wiser men before entrusting their hard earned funds in doubtful enterprises.

## Mechanical Aids to Crime

By WILLIAM McADOO

Chief City Magistrate, New York City

WHEN you speak of crimes nowadays, citizens generally have in mind the crimes of violence so widespread over the whole country. These armed outlaws are practically all young men in their early twenties. Some people affect to believe that they are driven to crime by economic stress, mainly lack of employment. This is not true. This country is the richest in the world to-day, and no honest men, especially young men of their age, need look for work. As a matter of fact, this big army of young fellows are determined they will never do any honest work, especially manual labor. With the modern mechanism of crime, they are escaping detection and arrest in a large percentage of cases. A young fellow about to become a gunman can be truthfully told by his associates that he runs a comparatively small chance of being arrested for any robbery he may commit. The number of robberies is out of proportion to the arrests.

### MAKING THE HOLDUP EASY

In nearly all towns and cities of the United States the police force is inadequate in number. In some they are not properly trained; in others they have not a secure tenure of office and are subject to political influences. All policemen should be appointed through civil service competition, have a secure tenure of office only removable on charges, and a final appeal to the courts, and a substantial pension, as in New York. London has 23,000 policemen; New York has 11,000.

New York really needs about 33,000 policemen.

Here are two young fellows who are going to start out to commit robberies, holdups, as they are called. They have secured without any trouble four of the very best make of automatic revolvers and plenty of ammunition. They wear soft caps which can be pulled down over the face so as to make identification difficult. They are smartly dressed and have a common school education and have been born in this country, of foreign parentage or otherwise. They know from the gangs with whom they associate of the great number of robberies on which no arrests were made. They plan a holdup carefully, weeks ahead; time, place, circumstances are all noted; the conclusion reached (in some cases) that in the middle of the day when the traffic is greatest is the best time to make what they call a "get-away" after a successful holdup or robbery.

This brings the motor car into use. They can hire a taxicab where the driver is a criminal, actual or potential; they can own a car or they can steal one. In the latter case, they are apt to steal the very best make of cars so as to give the impression in using it that they are well-to-do, law-abiding citizens. They come upon the victim suddenly, and even if he had a dozen rescuers they would be of no use to him. A robbery was committed in New York City last week where there were buttons all along the counter of a jewelry store which would sound a siren on the outside, and every man

in the store had a revolver ready at hand. The gunmen were so quick and unexpected, however, that the occupants were afraid to sound the siren and did not dare use the revolvers they had on their persons. The robbery was successfully carried out and the robbers got away without leaving a trace. It is a sample case of hundreds, if not thousands, that take place all over the country.

As to burglaries and robberies and crimes at night, the useful household flashlight has taken the place of the burglars' old dark lantern with its smell of oil and sputtering wick and the shutter that had to be opened and closed.

#### REMEDYING THE SITUATION

You have here three mechanisms of crime: the revolver, which is the curse of America and is more plentiful in this country than lead pencils in the hands of both law-abiding and law-breaking people; the swift-moving motor car, and the congestion of traffic in all big cities; and the flashlight, not to speak of the common, well-known soft cap.

The publication of robberies and the skillful get-aways encourage crime. How can we remedy this situation?

If it were left to me, the first thing I would do would be to outlaw the pistol, so that anyone possessing a pistol would be on the defensive as to character and intentions. Let the law-abiding people voluntarily disarm, so that nobody would have a pistol but an outlaw or a dangerous criminal, who has no more right to be at large and out of-jail than a mad wolf in a big city, because he will never reform and he will steal and rob and murder as long as he is free. He will never work at honest labor.

It is an appalling situation and time and space will not permit me to go into what must be done with these youths before they become actual criminals. That is a social and religious question that this country will have to meet. But, in the meantime, get rid of the pistol; regulate more strictly the use of the motor car; and, of course, increase the police forces far beyond their present number, especially in big cities like New York, Chicago, Philadelphia and Boston. Take the whole police force squarely and entirely out of politics and political influence of any kind, so that they will be as free from that as the personnel of the regular army and navy.

## Illegitimacy in St. Louis

BY GEORGE B. MANGOLD, PH.D.

Social Service Secretary and Educational Director of the Church Federation and Board of Religious Organizations of St. Louis

**I**LLEGITIMACY is a serious social problem, but it is difficult to develop sufficient public interest to work out adequate plans of relief and prevention. It is necessary to begin with the available information. The records used are for the years 1920, 1921 and 1924.

#### THE PROBLEM

It appears that the annual number of illegitimate births recorded in St. Louis is about 600. However, this figure under-states the facts, owing to the tendency to suppress information

relating to illegitimacy. Some cases, no doubt, are recorded as legitimate; others are not recorded at all.

The aggregate number of white births greatly exceeds the number of colored, but the proportion of colored births that are illegitimate is from four to five times as high as the proportion among the whites. In view of the recent development of home life, and of the still-existing bad housing conditions among the colored, such proportions may be expected.

*Residence of Mothers.*—The following table shows the residences of mothers according to the public records:

| Residence of Mother               | 1920 | 1921 | 1924 |
|-----------------------------------|------|------|------|
| St. Louis.....                    | 397  | 445  | 463  |
| Missouri (outside St. Louis)..... | 34   | 66   | 61   |
| Illinois.....                     | 63   | 57   | 44   |
| Other states.....                 | 72   | 66   | 41   |
| Total.....                        | 566  | 634  | 609  |

Unfortunately the facts in respect to residence cannot be accurately recorded. Many women come from outside the city shortly before confinement. They are not legal residents and in fact are not practical residents, since they expect to leave St. Louis again as soon as possible. There is little accuracy in respect to the number who give other communities as their residence. However, to this number should be added those additional cases of persons who have not made St. Louis a *bona fide* residence and who come here either to take advantage of our hospital facilities or to cover up the facts as to their pregnancy. The figures, therefore, credit the city with a larger proportion of the total than the city deserves. The actual rate of illegitimacy among our own population is considerably less than the figures imply.

From the standpoint of state control, both those women residing in St. Louis and in Missouri, outside of St. Louis, should be counted. They together constitute the problem under the laws of this state. Those coming from outside the state are naturally subject to the laws of those states. The volume of our legal problem is seen in the figures showing the number of residents in the state, including St. Louis.

The migratory character of our American population is brought out in the statistics relating to the birthplace of the mothers. Nearly two-thirds of the number were not even born in Missouri. Slightly more than 10 per cent were native St. Louisans. The biggest inflow naturally comes from the surrounding states.

*Place of Birth of Child.*—The great bulk of illegitimate births occur in our public and philanthropic hospitals. In 1924, the proportion was 70 per cent. Furthermore, City Hospital has a rapidly increasing number of cases. The births in private homes are gradually declining, and even the commercial maternity homes have fewer cases than formerly. There are some distinct advantages in this development. With the establishment of social service departments, the hospitals can make better contacts with the mother, and more satisfactory social service treatment will follow.

*Age of Mothers.*—The following cumulative table throws light on the age of the unmarried mother:

| Age of Mothers    | 1920 | 1921 | 1924 |
|-------------------|------|------|------|
| 15 and under..... | 23   | 45   | 45   |
| 18 " ".....       | 174  | 240  | 274  |
| 20 " ".....       | 314  | 374  | 398  |
| 21 " over.....    | 231  | 243  | 214  |
| Unknown.....      | 21   | 17   | 2    |

Clearly the number of very young



mothers is rapidly increasing, and the great majority of the total number are under twenty-one years of age. In 1920 the age of greatest frequency was twenty years, but in 1924 it stood at eighteen, with an alarming number at ages seventeen and sixteen. Many of the mothers are under the age of consent. As is to be expected, the age of colored mothers runs somewhat lower than that of the whites. Facts such as these are superficial proof, at least, against the contention that the great majority of these women are hardened offenders.

*Number of Children Born to This Mother.*—In about 80 per cent of the cases, this birth represents the first child. In the remaining cases, or about 20 per cent, there have been previous births. Among the younger women, these births no doubt are in most cases illegitimate. However, where five or more births have been recorded, many of the children are legitimate, since some of the women have been divorced or are widowed. The younger the mothers, the fewer the number of previous births.

*Premature and Still-Births.*—The number of premature births seems to be about 13 per cent of the total. This figure is much larger than it should be and denotes abnormal physical or mental conditions in respect to the mother previous to confinement.

The still-births number about 10 per cent, but in the community as a whole, the rate is only about 4. In other words, there are two and one-half times as many still-births among illegitimate children as among all births. These facts should be considered in connection with a program of care and treatment.

*Occupations of Mothers.*—In the table above is given the occupation of mothers as it appears on the records:

| Occupation of Mother                    | 1920 | 1921 | 1924 |
|---|------|------|------|
| Housework.....                          | 279  | 317  | 289  |
| Factory.....                            | 68   | 76   | 77   |
| Laundress.....                          | 24   | 27   | 28   |
| Waitress or cook.....                   | 15   | 10   | 17   |
| Office.....                             | 34   | 24   | 7    |
| Clerk, including saleswoman.....        | 25   | 40   | 33   |
| Seamstress or milliner....              | 4    | 12   | 9    |
| Telephone or telegraph....              | 15   | 15   | 13   |
| School attendants or student.....       | 16   | ..   | 52   |
| Teachers, including music teachers..... | 5    | 6    | 6    |
| Miscellaneous.....                      | 29   | 50   | 28   |
| No occupation.....                      | 52   | 57   | 50   |
| Total.....                              | 566  | 634  | 609  |

The facts brought out in this table correspond with those discovered in other investigations. Practically one-half of the women are engaged in housework. Factory employment comes second, but there are also a large number of office girls and clerical workers. These figures must not be considered in connection with any particular St. Louis situation, because of the fact that the girls counted under some of these occupations have come from outside the city. The facts for occupation should be thought of in connection with the number engaged in those occupations. The rate of illegitimacy among domestic servants is higher than the proportion of domestic servants among the women workers.

*Social Classes.*—According to the Children's Aid Society of St. Louis, unmarried mothers can be divided into three distinct classes. There is a small but wealthy group who go to private hospitals and usually abandon their children. Later they return home hoping that the community will forget about their transgressions.

There is a second group consisting of girls from the humbler homes. Fre-



quently they are poor in physique and untrained in moral and social standards. Many of these girls can return to their homes and reassume their former position.

The girl from the middle class is the one who faces the most serious problem. Here standards are high. Readjustment becomes a very difficult matter.

*Missouri Law.*—The Missouri laws are very unsatisfactory. The Children's Code Commission tried for six years to secure legislation such as that which exists in forty-two other American states. The bill which provided for the establishment of paternity, according to generally recognized modes of procedure, was defeated. The bill also provides for paternal support of the child. Our law, therefore, does not meet the situation and the putative fathers have practically no obligation. There are two laws under which something might conceivably be done, although this is very difficult. The law of 1921, which provides for equal inheritance of illegitimate with legitimate children, authorizes suit to establish paternity. However, it does not lay down methods of procedure such as those usually given in the law. The statute is practically useless, and few, if any, cases have been made under it. Our desertion law has also been modified so that any person who abandons or deserts his child under sixteen years, whether born in or out of wedlock, may be punished. The practical effect of this law has been to increase the burden on the mothers, and to leave the fathers unpunished.

#### MEETING THE PROBLEM

In order to discover what St. Louis agencies were doing with the cases of illegitimacy confronting them, a study was made of a number of agencies engaged in such work. Partial infor-

mation was obtained for over one thousand cases, but none of the agencies were able to present adequate information along all lines.

According to the information received, six institutions reported returning 276 mothers and their children to their parents. The same institutions returned 138 mothers without their children to their parents. All of the institutions together reported separating 85 mothers from their children. They also claimed that 104 had abandoned their children.

In 39 cases, the mother married the father of the child, and in 25 cases she was married to some other man. In very few cases was an effort made to secure paternal support. The inadequacy of our law was one cause of this failure. As a consequence most of the children about whom information was obtained were supported by their mothers. A small number were placed in institutions, and a somewhat larger number were put in private homes. In the case of 173 children, paternity was unofficially known, but legal support was not obtainable merely upon this evidence.

The chief child-placing organization that deals with the problem is the Children's Aid Society. The great majority of the mothers with whom it deals are persuaded to keep their children. Out of 80 mothers handled, 36 became very devoted to their babies, while 31 developed considerable interest and only 13 remained indifferent. One of the most serious conditions with which the Society must cope is the fact that 20 per cent of the fathers in the case are married men and even the extra-legal efforts to obtain paternal support fail under such circumstances. A careful system of follow-up work by the Society has resulted in the rehabilitation of a large number of the mothers coming under its care.

## OBSTACLES TO SOLVING

The chief difficulties in the way of the successful handling of cases of illegitimacy in St. Louis, whatever be the social agency concerned, are the following:

(1) A large number of mothers come from outside the state and their problem should be worked out in the state of their residence. There is no co-operative plan whereby such states definitely agree to accept responsibility for these mothers.

(2) The shortcomings in our own law make it difficult to obtain similar service from the counties in Missouri from which these girls come.

(3) The law to establish paternity cannot be applied except at considerable cost. This cost makes action in most cases prohibitory.

(4) Without a law providing for paternal support, as mentioned before, legal action seems hardly advisable, even though paternity could be established.

The attitude of the community must also be taken into consideration. The work of an agency often fails in its purpose because the community does not agree with its method or plan. The greatest difficulty is met in the courts where the attitude of mind is often quite different, and in the offices of the prosecutors where similar obstacles are encountered. Our social agencies are frequently confronted with the following viewpoints:

(1) Babies should not be kept with their mothers, but be taken from them as soon as possible.

This attitude has often made it difficult for a social agency to work out the problem of the mother. It is diffi-

cult to place a mother with her child in a private home when the would-be beneficiaries believe that mothers and babies should be separated.

(2) The parties should marry each other.

Often when a case is taken into court, pressure is brought to bear on the mother to marry the father of the child. Our social agencies, as a rule, do not believe in forced marriages. Most forced marriages have been unhappy and have merely led to additional troubles.

(3) A girl under 16 years must prove her innocence.

So fixed has this notion become that very few attempts are made to enforce our age of consent law. This law fixes the unqualified age at 16 years, and provides that girls between 16 and 18 years prove previous chastity. The law for girls under 16 years is perfectly clear, and there should be no difficulty in enforcing it.

(4) A man should not be exposed if he is a married man.

Even the social agencies have hesitated to take action in case of a married man. Quite generally the effect on his family is made a greater consideration than the social effect of requiring the acceptance of proper responsibility. How this situation can be improved, if married men are not to be held responsible for their actions, it is difficult to say.

(5) The girl must wear the scarlet letter.

This notion is still altogether too common. No one seems to make this demand as far as it applies to men, but for a woman to be reclaimed is still difficult. A more tolerant sympathetic public opinion is needed.

## Some Aspects of Juvenile Delinquency

By NEVA R. DEARDORFF

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**P**RACTICALLY speaking, it is fair to say that the juvenile delinquents of the community are those children who cause their parents or their neighborhood such trouble by their behavior as to lead to their being brought to court. Since what causes one parent trouble does not bother another one especially, what incenses one neighborhood is accepted complacently by another, and what looks "suspicious" to one policeman means nothing to another, it must be obvious that these children have no distinguishing attributes other than their experience with legal machinery. It is even true that a child is sometimes brought to court technically as a juvenile delinquent when no specific offense whatever is actually charged against him. Conversely many children whose conduct is notoriously anti-social are not counted in the delinquent group.

The fact that juvenile delinquents include not only violators of law but also offenders against morals and mores adds to the intangibility of the concept. While the Pennsylvania law giving the juvenile court jurisdiction distinguishes between incorrigible and delinquent children, for the purposes of ordinary discussion the two classes are lumped together as delinquent. Says the law:

The words "incorrigible children" shall mean any child who is charged by its parent or guardian with being unmanageable. The words "delinquent child" shall mean any child including such as have heretofore been designated "incorrigible children" who may be charged with the violation of any law of this Commonwealth,

or the ordinance of any city, borough or township.

Thus it will be seen that a delinquent child may range from a youthful law-breaker justifiably ignorant of the mass of state and local legislation to a very deliberate young offender. As for the incorrigible children whose parents find them troublesome it is well to remember here as elsewhere that it takes two or more to make a quarrel. In a situation so inchoate, one wonders whether there is any person in the Commonwealth who might not at some period of his life have been delinquent or incorrigible or both, and who was prevented from being definitely designated as such only by a large element of fortuitous circumstance.

In this dilemma of having, on the one side, a whole population of children who might with a thoroughgoing administration of law be called at some moment or other delinquent or incorrigible, and on the other side, a relatively small proportion of children thus actually designated, it might be helpful to take the wholly objective point of view of the ethnologist and ask about the treatment of troublesome children as a culture trait in our civilization. What is it that brings a child to court? What happens to him when he gets there?

It is not without significance that juvenile courts arose as and still remain to a very large extent, culture traits of cities. This is probably due to several factors. First, there are more ways of becoming troublesome to parents and neighborhood in crowded cities than there are in the country. Second, the

machinery of the criminal law in cities becomes more impersonal and stereotyped than justice dispensed in the country. Third, there were civic and philanthropic leaders in the cities who worked to see that such children as were brought to court should be treated not only with humanity but with some degree of intelligence.

But this very change in itself, from the standpoint of the measurement of juvenile delinquency, brings about a curious situation. Just in so far as juvenile courts succeed in helping parents with troublesome children or at least in making the public think that they can, just to that degree will more parents with troublesome children resort to them and thus bring their children into this class. With a rigorous and ruthless administration of the criminal law any parent would hesitate to report his child as unmanageable, but with juvenile courts advertising broadly their use of humane methods for the rehabilitation of children, parents need have no hesitation in bringing their children forward as the subjects of this free treatment.

#### PREVALENCE OF JUVENILE DELINQUENCY CASES

All things considered, an astonishingly small proportion of our children come before juvenile courts. Let us take the Municipal Court of Philadelphia as an illustration. According to the 1920 census for Philadelphia, the city had a population of 278,429 children between the ages of seven and fifteen years inclusive: the numbers of boys and of girls were about equal. According to the 1924 report of this court, the number of "children's cases referred to the juvenile court on new charges of delinquency and disposed of formally through court hearing or informally by the judge without court hearing" was as follows:

|           | <i>Boys' Cases</i> | <i>Girls' Cases</i> |
|-----------|--------------------|---------------------|
| 1920..... | 4645               | 516                 |
| 1921..... | 4901               | 520                 |
| 1922..... | 4768               | 595                 |
| 1923..... | 5780               | 686                 |
| 1924..... | 5663               | 715                 |

A new charge means that a new offense has been committed or that the conditions of probation have been violated to such an extent as to warrant the filing of a new petition in delinquency. But the above are not all the delinquency cases with which the court dealt. It had some pending from the previous year and it had some that were not disposed of at the end of the current year, and it had some handled by probation officers only. The maximum figure for new charges dealt with by this court and its probation department for the year 1924 is 7132, of which 6093 were boys' cases, and 1039 were girls' cases. "Cases" must not be confused with children; but taking the largest obtainable figure for cases in 1924, and using the 1920 census figure as a population base, we get about forty-four boys' cases per thousand boys between seven and fifteen years inclusive and about seven girls' cases per thousand girls of that age. There were 3975 different children involved in new charges of delinquency during 1924, of whom 3218 were boys and 757 were girls. Of these 3975 children, 1341 had been known to the court in previous years. The new intake of delinquent children numbered only 2634.

It is sometimes easier to get perspective if one assumes a smaller unit of population with the same age distribution. Let us take a city of a hundred thousand. If juvenile delinquency cases were equally prevalent in such a community there would be among its 15,266 children between the ages of seven and fifteen inclusive about 336 boys' cases and fifty-three girls'



cases—with a lesser number of different boys and girls involved—in the course of a year.

If every one of these "cases" represented a different child, well started toward becoming an adult troublemaker in the community, the above estimate might have a considerable import. But let us see with what these children are charged. If they followed the behavior of the Philadelphia children in 1924 these boys' and girls' cases would break up into the following percentage <sup>1</sup> groups:

|  | <i>Percentage<br/>of Boys'<br/>Cases</i> | <i>Percentage<br/>of Girls'<br/>Cases</i> |
|--|--|---|
| Beyond parental control .....                                  | 33                                       | 54  |
| Truancy .....  | 11                                       | 9   |
| Runaway .....  | 11                                       | 21  |
| Runaway from institution ....                                  | 4  | 5   |
| Incorrigibility ...  | 7  | 19  |
| Offenses due to carelessness, spirit of play or mischief ..... | 30                                       | 7   |
| Stealing .....   | 28                                       | 7   |
| Assault .....  | 3  | 3   |
| Sex offenses .....   | 1  | 6   |
| Witnesses in sex offenses .....                                | —  | 19  |
| All other offenses ..  | 6  | 5   |

It would then appear that of our 336 boys' cases, a third would consist of conflict with parental authority with all that is implied of broken homes, parental irritability and inefficiency due to ill health, ignorance, mental defect and instability, troubles in school and in institutions and all of the other reasons which may lie back of a complaint made by parent or institution against a child. Roughly, another third of these boys' cases

<sup>1</sup> These percentages are taken from the 1924 Municipal Court report, p. 16. The fact that they add to 101 per cent is probably due to making adjustments on fractional amounts.

should be charged off as misfortune in getting caught in some thoughtless or mischievous prank or in offending some powerful force or some unsympathetic person in the community. If we know anything at all about boys we know that with 7633 of them in our city of 100,000, it would be the best behaved place in the world if there were not actually many more than a hundred happenings of this sort in the course of a year! Likewise with the cases of stealing, it would also be almost miraculous if in such a place there were only ninety-four instances when boys appropriated what was not their own. In the detailed figures in the Philadelphia report regarding the thefts or attempted thefts of these children one gets further light on this group. About a third are charges of unlawful entry, housebreaking and burglary, and a half are larceny. The numbers accused of automobile stealing, picking pockets, robbery and shoplifting are remarkably small. Included in this group are also some children who stole from persons in the home and who stole necessities such as coal and food for the home.

Of the fifty-three girls' cases in our town of a 100,000, over half would have originated on the complaint of the parental authority because the girl was unmanageable or a runaway. Of the remainder about half would have been held as witnesses in sex cases.

In view of these facts it would seem that the serious minded citizens of our hypothetical city would scarcely find it necessary to get especially excited about juvenile incorrigibility and delinquency in their community on account of its volume as measured by court contact. In candid moments they might even wonder why it was that, in a civilization which goes in for the deliberate stimulation of desire

for thrills, excitements and physical satisfactions and which contains so many strains and pressures in family and social relationships, more boys and girls had not broken through conventional restraints to the extent of getting into court.

#### SURVEY BY U. S. CHILDREN'S BUREAU

We have assumed the prevalence of delinquency in an imaginary city of 100,000 and based it on Philadelphia "experience." Can we check our estimate? The U. S. Children's Bureau surveyed the child welfare conditions and resources of seven Pennsylvania counties during 1924 as a service of co-operation with the Children's Commission of Pennsylvania. Information on every delinquent and incorrigible child under the age of eighteen years recorded as having been known to any kind of court or correctional institution during the year July 1, 1923, to June 30, 1924, was sought. The results are shown below.

Thus it will be seen that even when the age of the delinquents is extended to eighteen years and the turbulent sixteen- and seventeen-year olds are included, these counties are far from

furnishing the quota of court cases to which they are entitled according to Philadelphia experience and practice.

Ample room is left for a wide margin of expansion before the city figures are equalled. It is possible that the numbers of court cases in these counties should be a little larger. It is not the custom of quarter sessions courts or district attorneys in this state to record facts regarding the age of offenders. Although the field investigators in this study made a determined effort to get court officials to go over the dockets for the year and indicate the youthful offenders, it is probable that a few cases were missed.

If one may still farther belabor the point of the relatively small number of children who are officially designated as delinquent or incorrigible, it may be noted that in these seven counties all of the different children known either to courts or to correctional institutions or to both number 1326 and amount to eighty-five per 10,000 population between seven and seventeen years. In these counties as in Philadelphia the boys greatly outnumber the girls. Among the 1169 court cases, 990 were

| TYPE AND POPULATION OF COUNTIES STUDIED                                 | Cases of Children under the Age of 18 Charged with Delinquency, Incorrigibility, or Crime |                              |
|---|---|------------------------------|
|   | In Courts   | In Correctional Institutions |
| Total .....   | 1169  | 363                          |
| In a mountain county—1920 population approximately 130,000 .....        | 128   | 49                           |
| In a dairying county—1920 population approximately 53,000 .....         | 75  | 24                           |
| In a bituminous coal county—1920 population approximately 103,000 ..... | 167   | 11                           |
| In a county of commerce—1920 population approximately 154,000 .....     | 397   | 168                          |
| In a farm county—1920 population approximately 174,000 .....            | 215   | 64                           |
| In a manufacturing county—1920 population approximately 83,000 .....    | 154   | 36                           |
| In a hill county—1920 population approximately 35,000 .....             | 33  | 11                           |

those of boys, 174 were those of girls and in 5 cases the sex was not reported.

#### TYPES OF OFFENSES

It might be supposed that in the country there is less likelihood of children being brought to court without their having committed what is considered there as a serious offense. It may be enlightening, therefore, to see with what types of offenses these children were charged. The tables that follow (pp. 73-75) classified somewhat differently from those in the Philadelphia Municipal Court, give the exact charges as they stood in the county records.

#### DATA INADEQUATE

A little study of these figures suggests, first, that they must give but a fragmentary and vague picture of the misbehavior of children in these counties, and second, that the courts are serving much more as agencies for the prosecutions of offenses involving property than as a means of coping with character defects appearing in children. While it might well be thought that the 368 cases of offenses against property and the 164 instances of trespassing and malicious mischief committed by boys constitute a fair proportion of such cases in the communities, it cannot be supposed that a total of fifty-six represents more than a small fraction of the offenses against morality by boys and girls or that forty-three violations of specific ordinances are more than a slight proportion of such occurrences in the community. It is true that the 153 cases under the blanket terms of "incurability" and "delinquency" might add to the offenses against morality and violations of specific ordinances, but even with these possible additions the majority of such cases must have been unreported.

It is also true that one young offender may exhibit several forms of delinquency, only one of which has been singled out for labelling and classification when he is brought into court.

In so far as the records indicate the specific nature of the offenses committed by the child, there seems to be in each category a range from the very serious from the standpoint of society, to the utterly trivial. The offenses against persons and animals begin with murder and end with knocking down a child. The category of vices tapers down to visiting a gambling house, while the offenses against property range from arson and robbery to breaking windows.

Concerning malicious mischief and similar offenses in which general labels are used, it is enlightening occasionally to learn what was covered by these broad terms. There seems no doubt but that an element of misfortune figured prominently in some of them. One such case was heard when the field investigators were visiting a juvenile court. Under the charge of tampering with railroad property a twenty-year-old boy and three others, who were from thirteen to fifteen years old, were brought in. The twenty-year-old boy had thrown a dead snake up over a high tension wire and was throwing stones at it. The younger boys joined him. Unfortunately one of them threw not a stone, but an iron hooked bar, which caught on the wire and caused a short circuit. This cut off the power in the nearby railroad shops, a consequence naturally unforeseen and unintended by the boys.

A similar illustration of the way in which extraneous forces can operate in these juvenile cases comes from another county. A fifteen-year-old boy with a mechanical turn of mind was delighted when a neighbor asked him to try to find out what was the matter with his automobile. After George had found

DISTRIBUTION BY OFFENSE AND SEX OF THE CASES OF CHILDREN UNDER THE AGE OF EIGHTEEN  
BROUGHT TO THE ATTENTION OF COURTS IN SEVEN PENNSYLVANIA COUNTIES  
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| OFFENSES   | Total | Boys | Girls | Sex Not Reported |
|--|-------|------|-------|------------------|
| Grand total.....   | 1169  | 990  | 174   | 5                |
| I. Offenses against persons and animals.....                 | 38    | 35   | 3     | ..               |
| 1. Murder of baby.....                                       | 1     | ..   | 1     | ..               |
| 2. Involuntary manslaughter.....                             | 1     | 1    | ..    | ..               |
| 3. Accidental shooting.....                                  | 1     | 1    | ..    | ..               |
| 4. Assault.....  | 1     | 1    | ..    | ..               |
| 5. Assault and battery.....                                  | 22    | 20   | 2     | ..               |
| 6. Assault and battery and robbery.....                      | 1     | 1    | ..    | ..               |
| 7. Statutory rape.....                                       | 1     | 1    | ..    | ..               |
| 8. Statutory rape and f. and b. <sup>1</sup> .....           | 3     | 3    | ..    | ..               |
| 9. Assault and malicious mischief.....                       | 1     | 1    | ..    | ..               |
| 10. Molesting other children.....                            | 1     | 1    | ..    | ..               |
| 11. Knocked down child.....                                  | 3     | 3    | ..    | ..               |
| 12. Cruelty to animals.....                                  | 2     | 2    | ..    | ..               |
| II. Vice—Offenses against morality.....                      | 56    | 27   | 29    | ..               |
| 1. Immorality.....   | 30    | 6    | 24    | ..               |
| 2. Immorality (f. and b.) <sup>1</sup> .....                 | 1     | 1    | ..    | ..               |
| 3. Fornication and bastardy.....                             | 1     | 1    | ..    | ..               |
| 4. Street walking.....                                       | 2     | ..   | 2     | ..               |
| 5. Immorality and receiving stolen goods.....                | 1     | ..   | 1     | ..               |
| 6. Incurability and immorality.....                          | 2     | ..   | 2     | ..               |
| 7. Sodomy.....   | 1     | 1    | ..    | ..               |
| 8. Gambling.....   | 17    | 17   | ..    | ..               |
| 9. Visitor to gambling house.....                            | 1     | 1    | ..    | ..               |
| III. Offenses involving property.....                        | 379   | 368  | 11    | ..               |
| 1. Larceny.....  | 274   | 264  | 10    | ..               |
| 2. Larceny, felony and burglary.....                         | 1     | 1    | ..    | ..               |
| 3. Larceny and forcible entry.....                           | 4     | 4    | ..    | ..               |
| 4. Larceny and breaking and entering.....                    | 29    | 29   | ..    | ..               |
| 5. Larceny and truancy.....                                  | 2     | 2    | ..    | ..               |
| 6. Larceny and forgery.....                                  | 1     | 1    | ..    | ..               |
| 7. Larceny and discharging firearms.....                     | 1     | 1    | ..    | ..               |
| 8. Breaking and entering.....                                | 7     | 7    | ..    | ..               |
| 9. Attempting larceny.....                                   | 1     | 1    | ..    | ..               |
| 10. Breaking and entering with intent to commit larceny..... | 1     | 1    | ..    | ..               |
| 11. Suspected of attempted larceny or larceny.....           | 2     | 2    | ..    | ..               |
| 12. Receiving stolen goods.....                              | 2     | 2    | ..    | ..               |
| 13. Breaking and entering with intent to commit felony.....  | 1     | 1    | ..    | ..               |
| 14. Robbery.....   | 2     | 1    | 1     | ..               |
| 15. Burglary.....  | 1     | 1    | ..    | ..               |
| 16. Arson.....   | 3     | 3    | ..    | ..               |
| 17. Destruction of property.....                             | 20    | 20   | ..    | ..               |
| 18. Shooting chickens.....                                   | 1     | 1    | ..    | ..               |
| 19. Throwing stones and destroying property.....             | 1     | 1    | ..    | ..               |
| 20. Tampering with railroad property.....                    | 3     | 3    | ..    | ..               |

<sup>1</sup> Fornication and bastardy



DISTRIBUTION BY OFFENSE AND SEX OF THE CASES OF CHILDREN UNDER THE AGE OF EIGHTEEN  
 BROUGHT TO THE ATTENTION OF COURTS OF SEVEN PENNSYLVANIA COUNTIES (Continued)  
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|   | Total | Boys | Girls | Sex Unknown |
|---|-------|------|-------|-------------|
| 21. Malicious injury to railroad property...              | 2     | 2    | ..    | ..          |
| 22. Tampering with automobile.....                        | 2     | 2    | ..    | ..          |
| 23. Tampering with mail boxes.....                        | 5     | 5    | ..    | ..          |
| 24. Operating motor vehicle without consent of owner..... | 4     | 4    | ..    | ..          |
| 25. Breaking window playing ball.....                     | 9     | 9    | ..    | ..          |
| IV. Fraud and deception.....                              | 12    | 8    | 4     | ..          |
| 1. Blackmail with intent to extort money                  | 1     | 1    | ..    | ..          |
| 2. Forgery.....   | 4     | 3    | 1     | ..          |
| 3. Cheating and defrauding and forgery...                 | 1     | ..   | 1     | ..          |
| 4. Embezzlement.....                                      | 1     | 1    | ..    | ..          |
| 5. Defrauding.....  | 1     | 1    | ..    | ..          |
| 6. False pretense.....                                    | 1     | ..   | 1     | ..          |
| 7. Obtaining goods on false pretense.....                 | 2     | 1    | 1     | ..          |
| 8. Disposing of unwholesome and diseased meats.....       | 1     | 1    | ..    | ..          |
| V. Trespassing and malicious mischief.....                | 167   | 164  | 3     | ..          |
| 1. Malicious mischief.....                                | 81    | 80   | 1     | ..          |
| 2. Trespassing and malicious mischief and larceny.....    | 4     | 4    | ..    | ..          |
| 3. Trespassing and larceny.....                           | 2     | 2    | ..    | ..          |
| 4. Trespassing and malicious mischief.....                | 4     | 4    | ..    | ..          |
| 5. Malicious mischief and larceny.....                    | 20    | 18   | 2     | ..          |
| 6. Trespassing.....                                       | 39    | 39   | ..    | ..          |
| 7. Trespassing on railroad property.....                  | 12    | 12   | ..    | ..          |
| 8. Train riding.....                                      | 5     | 5    | ..    | ..          |
| VI. Offenses against public peace and good order.....     | 145   | 133  | 12    | ..          |
| 1. Fighting.....  | 2     | 2    | ..    | ..          |
| 2. Breaking jail.....                                     | 1     | 1    | ..    | ..          |
| 3. Disturbing the peace.....                              | 10    | 10   | ..    | ..          |
| 4. Surety of peace.....                                   | 3     | 2    | 1     | ..          |
| 5. Disorderly conduct.....                                | 109   | 101  | 8     | ..          |
| 6. Drunk and disorderly.....                              | 2     | 2    | ..    | ..          |
| 7. Drunkenness.....                                       | 2     | 2    | ..    | ..          |
| 8. Calling vile names.....                                | 1     | ..   | 1     | ..          |
| 9. Annoying neighbors.....                                | 6     | 4    | 2     | ..          |
| 10. Carrying concealed weapons.....                       | 5     | 5    | ..    | ..          |
| 11. Discharging firearms.....                             | 3     | 3    | ..    | ..          |
| 12. Having loaded firearms.....                           | 1     | 1    | ..    | ..          |
| VII. Offenses against school.....                         | 56    | 41   | 10    | 5           |
| 1. Truancy.....   | 27    | 23   | 4     | ..          |
| 2. Insolence in school.....                               | 1     | 1    | ..    | ..          |
| 3. Violation of the school code.....                      | 17    | 13   | 4     | ..          |
| 4. Absence from school.....                               | 11    | 4    | 2     | 5           |
| VIII. Violation of specific ordinances.....               | 43    | 42   | 1     | ..          |
| 1. Violation of traffic regulation.....                   | 14    | 14   | ..    | ..          |
| 2. Violation of automobile law.....                       | 1     | 1    | ..    | ..          |
| 3. Violation of swimming ordinance.....                   | 9     | 9    | ..    | ..          |
| 4. Violation of bicycle ordinance.....                    | 3     | 3    | ..    | ..          |
| 5. Operating motor vehicle without license.....           | 3     | 3    | ..    | ..          |

DISTRIBUTION BY OFFENSE AND SEX OF THE CASES OF CHILDREN UNDER THE AGE OF EIGHTEEN  
 BROUGHT TO THE ATTENTION OF COURTS IN SEVEN PENNSYLVANIA COUNTIES (Continued)  
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|   | Total | Boys | Girls | Sex Unknown |
|---|-------|------|-------|-------------|
| 6. Begging                                | 2     | 2    | ..    | ..          |
| 7. Violation of liquor law                | 2     | 1    | 1     | ..          |
| 8. Violation of city or borough ordinance | 6     | 6    | ..    | ..          |
| 9. Violation of curfew law                | 1     | 1    | ..    | ..          |
| 10. Vagrancy                              | 2     | 2    | ..    | ..          |
| IX. Conduct unsatisfactory                | 247   | 157  | 90    | ..          |
| 1. Delinquency (not otherwise specified)  | 12    | 10   | 2     | ..          |
| 2. Incurrigibility                        | 141   | 71   | 70    | ..          |
| 3. Incurrigibility and truancy            | 4     | 3    | 1     | ..          |
| 4. Incurrigibility and runaway            | 1     | ..   | 1     | ..          |
| 5. Loitering                              | 17    | 16   | 1     | ..          |
| 6. Runaway                                | 41    | 30   | 11    | ..          |
| 7. Runaway and suspicious conduct         | 1     | 1    | ..    | ..          |
| 8. Suspected of being a runaway           | 1     | 1    | ..    | ..          |
| 9. Staying away from home                 | 3     | 3    | ..    | ..          |
| 10. Stayed out at night                   | 1     | ..   | ..    | ..          |
| 11. Suspicious conduct                    | 17    | 17   | 1     | ..          |
| 12. Suspicion                             | 3     | ..   | 3     | ..          |
| 13. Loafing on the street                 | 3     | 3    | ..    | ..          |
| 14. Violation of parole                   | 2     | 2    | ..    | ..          |
| X. Not reported                           | 26    | 15   | 11    | ..          |

the difficulty and remedied it, the man asked him to run the car up the road a short distance to see if it was all right. George obeyed but, not being a skillful driver, he ran it into the ditch and damaged it badly. The owner then had George arrested on the charge of unauthorized use of a motor vehicle. He was taken to the county jail where he was held for about three weeks awaiting trial. The case finally came before the quarter sessions court and the boy was given a suspended sentence and ordered to pay the costs within three months. The reasons advanced for this formal action against this child was that in order to collect the insurance the owner of the automobile had to make out a case against someone.

It may come as a surprise to the uninitiated that this child was not

heard in juvenile court. In this connection it should be pointed out that the Pennsylvania juvenile court law, the eloquent preamble of which pleads that children be guarded from contact with crime and criminals, not only permits, outside of Philadelphia, the preliminary hearing—and often this is the final disposition—of a child's case before the minor judiciary, but also makes exceptions possible in such a way as to bring many children's cases into other courts. The practical outcome of this was clearly shown in the study of the seven counties. Of 487 cases of children under the age of sixteen who had formal court hearings, only 228 were in the juvenile court and of 268 cases of children who had informal hearings, 149 were in that tribunal. The other cases came before police officials, magistrates, aldermen

and justices of the peace. It seems obvious that the spirit of the juvenile court law, if not the letter, is being ignored throughout this state.

#### "THE SPIRIT OF THE AGE"

As one hears general discussions of the rising tide of juvenile delinquency, one wonders whether there has not been a confusion of ideas between juvenile delinquency as it is strictly defined and that disconcerting precocity in the pursuit of pleasure, now displayed by a good many young people. One wonders if what is now referred to as delinquency is not really a shift forward into earlier years of the worldly cynicism and the exercise of individual liberty and judgment which was formerly reserved for the more mature, the masculine and the privileged generally. This may appear to the middle-aged, remembering their own youth, as shockingly hard-boiled, but they must also recognize that this world is now somewhat franker, more aboveboard, and in some ways more generally sophisticated than it used to be. The young people but reflect the spirit of the age, shared alike by young and old. They reflect the behavior of the parents and the family friends and they strive to imitate the leaders in society and affairs. Are not the behavior and ideas of children the crude but honest mirror of what the community is now teaching—not by precept but by action and example—are the real values and *desiderata* of life?

We recommend that those citizens, whose excitement on the volume of juvenile delinquency can be allayed by the official figures, transfer their apprehensions to these less defined but no less real problems of the ideals of worth and pleasure now put before children.

#### TREND OF TREATMENT

While the spirit of the age undoubtedly accounts in large measure for the conduct of youth, it is only one, and at that the vaguest, diagnostic factor in the treatment of the individual child who gets into such serious trouble that the community must reckon with him. What is the trend of our treatment of delinquent children? Not being much afraid of them, we have almost ceased to call them criminals. In a very few places the public is willing to get people who will study with patience and imagination and will employ methods of skill and ingenuity in their behalf. In other places it is willing to give them a kind of cursory examination in an effort to avoid gross blunders and in still other places it does little or nothing except to put them through a dehumanized form of procedure which is little better than that of the pre-juvenile court days, except they are not kept in lockups, jails or penitentiaries. There are, however, in Pennsylvania and elsewhere exceptions even to this beginning step.

The following illustration will perhaps mark the point from which we must now start in the evolution of an intelligent handling of child offenders. This case was heard when the investigator was attending court in the farm county, listed above as one of those studied by the Children's Bureau.

The hearing lasted about five minutes. It was a case of a fifteen-year-old boy charged with breaking and entering a railroad station. He had been in a local home for boys and was accompanied by the superintendent, who was also the volunteer man probation officer. They had come to court early and stayed in the court of quarter sessions for nearly two hours until the business there was finished. They then went into another courtroom for

this boy's hearing. There were about fifteen persons present, including the court attachés, a newspaper reporter and two deputy sheriffs with their prisoner from the county jail. The parents of the boy, both of whom lived in the vicinity, were not present.

The two railroad officials were put on the stand first to testify. The superintendent of the boys' home then gave briefly some facts regarding the boy's history. It seemed that two years before the boy's father had formally released and surrendered him to the superintendent of the boys' home, who had placed him twice in farm families. The boy had behaved badly, stolen from the farmers and run away. He had been arrested for larceny and brought before a local justice of the peace, who had returned him to the boys' home. Another attempt was made at a farm placement, but this had been equally unsuccessful. The superintendent had no recommendation to make and the boy was put on the stand.

In answer to the district attorney's questions, he admitted that the charges against him were true. He said that he could not go home as his parents did not want him. Thereupon the judge spoke for the first time in the five minute hearing. He committed the boy to a reform school.

This boy's offense and commitment were the subject of considerable newspaper publicity.

Without prejudging what the reform school might be able to do, the treatment accorded this boy up to the time of his commitment would seem to have been the most effectual way now known of turning him into a hardened criminal. For, if the study of the development of crime has shown anything, it is that the mishandling of the juvenile delinquent is not only futile but also often the precipitate which transforms

him into an active and determined enemy of organized society.

In no aspect of life do the elements of social and of individual psychology interweave into a more intricate web than in juvenile delinquency. No phase of human relationships presents more complicated problems. The proper adjustment of every delinquent child is a process which challenges the bringing into play of every resource of knowledge and skill that modern medicine, psychology and psychiatry have developed. The fact that relatively few children are now coming into courts makes the scientific handling of them a practical possibility almost everywhere.<sup>2</sup>

The principal task now would seem to be not the stemming of a rising tide of juvenile delinquency in this country by emergency measures, but the opening of channels for getting to parents, teachers, officials and all others who must deal with children, first, the stores of readily available, easily ap-

<sup>2</sup> If one would know the best that is being done for these children, he will learn most if he turns to those workers in this field whose contact is direct, extensive and practical and whose social vision is clear and accurate. For juvenile court officials, Dr. Miriam Van Waters, of Los Angeles, in *Youth in Conflict*, published in 1925, has spoken the last word. Dr. Cyril Burt, in *The Young Delinquent*, 1925, presents a picture of the kind of study and treatment the psychologist of the Department of Education of the London County Council seeks for each young troublemaker. *Three Problem Children* and *The Problem Child in School*, recently published by the Joint Committee on Methods of Preventing Delinquency, and *Habit Clinics for the Child of Pre-School Age* by Dr. D. A. Thom, U. S. Children's Bureau Publication, No. 135, represent the approach from the angle of the Child Guidance Clinic. *The Court, the Clinic and the Child*, 1925, a memorial of the twenty-fifth anniversary of the Chicago Juvenile Court, is a notable collection of papers on the subject. These constitute only a fraction of the excellent material readily at hand with which to begin the more intelligent and therefore more humane and fundamentally efficient and economical treatment of children.



plied method for the fostering of physical and mental health, and second, of expert aid in especially difficult problems. Plenty of specific advice for those who have the sus-

tained will to do something constructive in the prevention of delinquency or in the care of delinquent children is to be had simply for the opening of the recent books on this subject.

## Politics and Crime

By RAYMOND MOLEY

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THE startling crime rate in the United States is probably due to defects in the administration of justice. Certainly it seems unlikely that any of the current popular guesses as to the causes of our regrettable situation, such as "the aftermath of the war," the high tide of immigration, or the effects of the Volstead Act, are to be seriously credited. And wherein the administration of justice fails to work smoothly, it fails because it is compelled to operate under the handicap of politics. From arrest to conviction, from sentence to release, political influences are present, and wherever they are present they are pernicious.

The ramifications of partisan politics in the American courts are familiar to every observer of the workings of governmental institutions. Nevertheless, it may be profitable to cite sufficient illustrations to bring out the number and aggregate importance of these influences. In describing these contacts and influences, care has been exercised to select the characteristic, rather than the unusual instances, and also to avoid names, even of the states from which the examples are drawn. There will occur to the readers similar instances to be found in practically every American jurisdiction.

### POLITICS AND THE JUDICIARY

A judiciary composed of strong independent personalities with fine

standards of propriety and a sense of responsibility not only for what happens in the court room, but for other related segments of the process of justice, could do much to restore the prestige of the administration of justice in every state. But such leadership, except in scattered instances, is impossible when the judiciary is so exposed to political influences. Judges must get elected, and so conduct themselves as to attain re-election. The term, in an overwhelming number of states, is six years or less, a period not long enough to permit even the newly elected judge to forget the necessity of building his following for the next election. A distinguished member of the Bar, who had served a term on a state supreme court, said this in private conversation:

I could not bring myself to run for re-election. It meant constant breaking in upon the time which a judge, sensitive to the quality of his written opinions, should give to study. It meant traveling from town to town, climbing stairways to the offices of professionally unworthy but politically powerful lawyers. It meant accepting invitations to attend meetings of every sort, to speak on topics representing every kind of irrelevance. It meant accepting familiarities from the unworthy without flinching, rejecting improper requests without administering the rebuke which they deserved. It was a hard choice, for I wanted the office, but the price was more than I could pay.

If this is the verdict when the office is so far removed from political influences as is the state's highest court, what must be the humiliation which our political system visits upon the judges of county and municipal courts!

Another judge, in another state which shall also be nameless here, said that he knew of many instances in which judges of city courts were roused from sleep by demands from the friends of arrested men for the acceptance of bail bonds. Having complied with the urgent request, the judge was sometimes permitted to soothe his broken rest by the thought of the five or ten dollar bill left on the table by the grateful surety.

What lawyer, familiar with the conditions in the courts of great cities, has not seen newspaper men halt the progress of a judge, as he retires to his private chamber after adjourning court, with the request that he recount to them the "high spots" of the day, which they have been too busy to secure in a more regular manner. Even in our delightfully informal land of equality, some store is set upon the nice question of which person should call upon which. Many people with old-fashioned ideas of the dignity of the Bench feel that the judge should be accorded the courtesy of receiving others. This custom still obtains in his relations with lawyers, who invariably must go to him to discuss matters affecting their cases. But we have often seen the judge call hat in hand upon the newspaper proprietor. In one verified instance, he has on numerous occasions gone to the city editor, this practice almost assuming the form of a subordinate reporting at intervals to a superior.

One reads these days with only casual interest that the mayor of New York has so far recovered from bronchitis brought on by overwork as to

take his customary place at the ringside in Madison Square Garden; and a few days later, that he has departed on a tour to the training camps of the ball teams of the Metropolis. The latter is somewhat reassuring to the reader, who is weary of winter and who is glad to know at once that spring is on the way and also that democracy still lives. But one tires of the sporting editor's practice in every great city of telling the public that "Judge—— was at the ringside." Not that we object to manly sport, or to furtive flashes of evidence of the humanness of judges. But it has become all too evident that this tendency goes with the office. Else why should this officer be always at the "ringside"? Judge Landis is not only a considerable personage and an executive of power, he is a great national emblem of the relation between our judiciary and the kingdom of sport.

While the evidence is not all gathered, there is weighty proof that the non-partisan judicial ballot has not helped matters in this respect. Such data as are at hand show that the Bench is not freed, by that form of election, from politics. The successful candidate is not so definitely responsible to the party boss, and if he is not only eminent but well known, he secures re-election without incurring liability of a compromising kind. But to remove the party label does not make the judge non-political. He becomes his own political manager. The Cleveland Survey of Criminal Justice proved<sup>1</sup> that the change from a partisan to a non-partisan ballot resulted in the election of younger men with fewer years of experience at the Bar. It also proved that those elected had in more instances held other political offices. The party machine in the old days had

<sup>1</sup> Moley, — *An Outline of the Cleveland Crime Survey*, p. 16.

selected judicial candidates with some consideration for experience as lawyers. The people have elected those whose names were most familiar because of prior publicity gained as aldermen or prosecutors. One is not disposed to pronounce judgment as to the relative desirability of these two sets of qualifications. A young judge may be a good judge. Previous political experience may be a favorable way to gain that insight into human values necessary to a wise administration of the law. But those who believe that experience at the Bar is an important factor in a judge's equipment, are likely to feel apprehension at these first results of non-partisanship.

#### POLITICS OF PROSECUTION

Next in importance to the Bench, in the enforcement of law, is the prosecutor. The discretionary powers of this office are so great that pressure for favors of various kinds is continuous, and often politically irresistible. The possibility of building political influence through the use of this office is so tempting that it becomes the very keystone of the county ring in most of the three thousand counties in American states. In large cities, the assistant prosecutors are often chosen with a view not to specialization in the types of cases tried, but with reference to the nationalities most common in the city. Thus, the Italians, if numerous, are represented by a member of their race who meets with those fellow-nationals who find their way into the toils of the law, or who, perhaps, are concerned with someone else who has been so unfortunate. Favors, or promises of favors, constitute a tremendous source of political power. The political leaders of that nationality operate through this representative, and each finds the other useful, while both contribute to the power of the machine.

The prosecutor's office has become, moreover, a place where careers are started. This is especially true in rural communities. The prosecutor is young. According to the Missouri Survey of Criminal Justice, just reaching completion, the median age of prosecutors in that state is from twenty-five to twenty-nine years; the median number of years of experience is from one to four. Thus the prosecutor's office is the first step in a political career. After a term or two these young men are running for Congress, or for some other political office. An examination of the public lives of our leading lawyer-statesmen would show that a very large proportion have served as prosecutors early in their careers.

One of the results of the political nature of this office is the tendency of prosecutors to give undue attention to spectacular cases, to the neglect of that much larger class of cases, important in themselves but not likely to attract widespread attention. This means that while the prosecutor may devote tremendous energy to securing the conviction of a few notorious criminals, he is likely to permit a large proportion of cases to go to trial with only indifferent preparation. If the aim of law enforcement is to make every commission of an offense, as nearly as is humanly possible, result in some form of legal punishment, this political tendency of the prosecutor is very wrong. The professional criminal is not likely to be deterred by what happens to the isolated case, but by what experience teaches him is likely to happen in the average prosecution.

The discretionary power of the prosecutor has been mentioned. This means, in most jurisdictions, that he may refuse to permit a case to proceed from arrest to the first hearing by refusing to issue a warrant. In the Missouri Survey already cited, it was

found that, in the city of St. Louis over a considerable period of time, the prosecutor refused 972 out of 2464 applications for warrants. This is only the beginning of the exercise of discretion. Most cases are disposed of before trial by a "*nolle pros*"; which is in fact decided upon by the prosecutor, by dismissal in the preliminary hearing, or by a "no bill" by the grand jury. The prosecutor dominates the grand jury, and often quite effectively influences the decision in the preliminary hearing. In both of these instances he may actually dispose of the case without formally assuming responsibility. His power over the criminal case is practically decisive. He is, then, politically the key to the whole process of law enforcement.

The Daugherty régime in the U. S. Attorney-General's office perfectly illustrated the politics of prosecution. According to the evidence developed by the senatorial investigation, one Jess Smith, without an official appointment, and without the right to practice law, occupied space in the Department of Justice, and seemingly possessed great power in governmental prosecutions. If we may accept Senator Wheeler's interpretation, Mr. Smith was Mr. Daugherty's political broker. He made political promises, arranged political rewards, and settled political differences. Mr. Daugherty could not be held responsible for Mr. Smith's actions, because the latter was not legally a subordinate of the Attorney-General, and his promises could be repudiated, if need be. But he was an important man to "see," perhaps one of the most important in all Washington.

"Jess Smiths" are not uncommon in prosecutor's offices everywhere. They are the contact between the political machine and the administration of justice.

#### POLITICS AND PENOLOGY

In 1870, the First National Prison Congress included in its Declaration of Principles the following statement:

The two master forces opposed to the reform of the prison systems in our various states are political appointments and a consequent instability of administration. Until these are eliminated, the needed reforms are impossible.

The most recently released study of penal treatment in an American state is a report on pardons and paroles, made by Professor A. F. Kuhlman for the Missouri Survey. Professor Kuhlman points out that the official records show that with every political change almost the entire salaried personnel of the penitentiary was changed. He also found that these employees came from almost every county in the state. The distribution of penitentiary jobs, then, was state-wide. In the same report is ample evidence that the granting of pardons and paroles was very largely influenced by partisan considerations. This requires no demonstration—it is common to every state in the United States. If an attorney wants pardon cases he gets them in large numbers merely by being known as the governor's friend, even though such friendship actually carries with it no influence whatever over the granting of pardons.

#### POLITICS OF POLICE DEPARTMENTS

Everyone is familiar with the politics of police departments. It found a new and picturesque expression during General Butler's tenure in Philadelphia. Another chief of a very large city said in confidence: "I couldn't last ten days if I permitted my force to attack crime as they really could attack it." It is possible that this chief was overstating the case, but his statement would meet with agreement by



chiefs in other cities. One city had an "unofficial" chief who managed appointments, assignments and promotions. He brought about some raids and prevented others. The official chief knew of his operations and resented them, but was powerless to prevent them. A commissioner in one of the few cities in the United States which still remains under state control, said: "How am I going to avoid politics in the police department? I am in politics." In the same city, "H. P. F." was appointed a probationary patrolman in 1920. His superior officers might have found in the records of their own department that he had the following arrest record against him:

| Date        | Charge and Disposition                                  |
|-------------|---|
| June, 1912  | Selling liquor without a license; discharged.           |
| Apr., 1915  | Disturbing the peace; discharged.                       |
| Mar., 1917  | Disturbing the peace; discharged.                       |
| Apr., 1917  | Disturbing the peace; discharged.                       |
| Oct., 1917  | Frequenting assignation house; no recorded disposition. |
| Apr., 1918  | Disturbing the peace; fined \$5.00.                     |
| Sept., 1919 | Robbery suspect; released.                              |
| Nov., 1919  | Larceny suspect; released.                              |

Three months after his appointment, charges were filed against him and he was dropped from the force. But in 1923 he was reinstated as a patrolman.

Raymond Fosdick, in his *American Police Systems*, comments as follows upon politics in the detective forces of certain cities:

On the other hand, it cannot be denied that the lack of civil service standards in the selection of detectives often opens up the entire force to politics of a mean and

petty sort. Inasmuch as assignment to detective work carries with it a certain measure of personal freedom as well as the prestige which goes with a higher quality of work and additional compensation, it is much sought after. In San Francisco, at the time of my visit, the entire detective bureau was shot through with politics, and assignments to this grade were the inevitable result of "pull" and favoritism. While the rest of the force in this city had been partly freed from politics, these sinister influences had not yet been driven from the detective bureau. Similarly in Atlanta appointments to the detective bureau have all too often been the result of political affiliations recognized by the board of police commissioners. In Pittsburg, where detectives may be chosen from civil life, the results are far from satisfactory. "They are not detectives, they are politicians," a high ranking officer of the uniformed force told the investigator.

We have already indicated that politics is not always based upon political party divisions. It may be most deeply rooted in religious, racial or some other interest in the community. In police departments, there is the inevitable and everlasting factional quarrel within the system between the Masons and the Catholics. This varies in its intensity from a quiet rivalry to a battle royal over the headship of the department. It is one of the most unfortunate of all of the influences which impair police efficiency. Another form of "pull" was shown in New York during the last months of the Hylan administration. An actress appearing at two theatres was for several nights transported from one to the other with a police escort. The accounts of eye-witnesses claimed a speed for her limousine of fifty miles an hour. Traffic was held for her, and thus, with the aid of the police, she secured all of the advertising that the "White Way" could afford.

## THE RESPONSIBILITY OF POLITICS FOR CRIME

Thus the whole process of justice from arrest to pardon is colored, if not dominated, by political influences. These influences are not entirely party influences; they represent in large part those political forces which are less responsible, such as the newspaper press, economic interests, immigrant groups and others.

There are other general relationships between politics and crime which present a more immediate problem. One of these is the effect of the rising tide of liquor. In December of last year, there were convicted at one time in a Federal district court a score of defendants on a charge of conspiracy. Among them were a number of prominent politicians of St. Louis and of Cincinnati. There were office-holders, including the Harding appointee to the Internal Revenue Collectorship in St. Louis. The act out of which the charges grew was the stealing of liquor from a warehouse, to the value of nearly a million dollars, and the use of the liquor in bootlegging. The drag net of the Department of Justice caught the entire group, from the "higher ups" to those who had actually performed the criminal acts. The personnel of the group thus captured is a very interesting example of the operation of criminal groups everywhere. There are connections with politicians and office-holders high in power, with ample money drawn from the business in which they were engaged and with influence which, in a mere state case, might have prevented any successful prosecutions.

The money now available from bootlegging operations is a very important factor in the problem of crime generally. It furnishes the sinews of war when the police are engaged more ac-

tively than usual in making arrests. It buys bondsmen and the property which bondsmen pledge. It employs able lawyers for defense, and it purchases influence. This element of corruption has so affected the administration of justice that it is most certainly to be named a major cause of crime.

It is common to scoff at the idea of "organized crime" with the assertion that such a conception is based upon fantastic notions of a vast underworld organization with workers, lieutenants, captains and at the top a "master mind," an organization which has no being except in melodrama. But "organized crime" does exist although it is not so nicely integrated as in the crime world of fiction. There is a division of labor—there are shop-keepers who dispose of loot, lawyers who have more than a professional relation to defendants, and others who grow rich on the proceeds of vice and bootlegging and who because of this wealth become masters of many criminals who actively perform the work of crime. It is the despair of those who believe in party government that this semi-integrated underworld does have its indirect relations with political organizations and thus reaches in its influence, officials who dwell in the very citadels of "respectability." The trail from one end of this relationship to the other is a long one but it is well worn.

After an experience extending to an intimate contact for several years with this question, a contact which has included participation in the two major investigations of the field made in Cleveland and in Missouri, the writer of this article is brought to the conclusion that *of all causes of the mounting tide of crime in America, the political aspect is the most important.* New laws and new scientific discoveries will not avail much. Increased severity of punishment can accomplish very little.

The institutions which are charged with law enforcement are too intimately bound to political interests. The influence of the political factors suggested in the preceding paragraphs must bear the major responsibility for the "crime wave." Thirty years ago, the government of the American city

was called a failure by Lord Bryce because its politics had become utterly corrupted by public contracts and public utilities. To-day, most of the politics that has been driven out of those more profitable interests has found lodgment in the processes of justice.

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## The Work of the American Law Institute in Criminal Procedure

By WILLIAM DRAPER LEWIS, LL.B., Ph.D.

Director, The American Law Institute

THE American Law Institute has undertaken to formulate a Model Code of Criminal Procedure. This action of the Institute marks a definite step forward in the solution of America's most pressing domestic problem.

The administration of criminal justice in the United States is a failure. This is an alarming fact. It is not a new condition. For years the failure has been patent to any careful observer, but it has taken the recent appalling increase in crime to make us realize it.

It is easier to recognize this condition than to diagnose its causes.

### CRIME CONDITIONS IN THE UNITED STATES

We are all more or less familiar with comparative statistics showing the relative amount of crime in the United States and Canada or Western European countries. A statement has been made that during 1924 there were 10,000 killed in crimes of violence in the United States while in England and Scotland during the same year there were only 151, and that there were in 1923, 54 more homicides in Philadelphia than in the entire Dominion of Canada. Another report asserts that if a man commits murder in the city of London he has a ninety-three per cent chance of being hung, while if he commits murder in the United States, his chances of not being caught at all are exceedingly good and he has the assurance that he runs only a five per cent risk of suffering the extreme penalty of the law.

It is true that anyone who takes the trouble to examine critically the foundation of these and similar statistics will find that the data available do not warrant anyone setting forth as accurate definite figures and exact percentages. Criminal statistics in America and in the British Empire are not kept on a uniform system. There is no uniform system of keeping such statistics in force among our several states and seldom any uniform system in different parts of the same state. Indeed, with us so little attention has been paid to the matter of collecting and tabulating accurate information concerning crime and the administration of criminal justice that, except in rare cases, it is not possible, even with the expenditure of time and money, to obtain more than what may be termed approximate statistical results.

Although, by reason of the deficient and chaotic state of our criminal statistics, we are obliged to look skeptically on all attempts to give definite figures of the comparative amount of crime in this and other countries, the comparative number of convictions obtained, or the comparative number of punishments inflicted, the resulting picture which the figures quoted give us of an appalling amount of crime in the United States, and of the criminal's immunity from detection, conviction and punishment is essentially correct. Whether the amount of serious crime per thousand of the population in the United States is five or ten times the amount in Great Britain, or whether



the comparative chances of detection and punishment are one to six or one to twelve is not very important. The truth which should be brought home to every American who cares anything for his country and his country's future is that a vastly greater amount of crime exists here than in countries whose cultural and economic conditions are not essentially different from our own, while our administration of criminal justice, whether tested as machinery for crime prevention, or crime detection, or crime conviction, is grossly inadequate to meet present conditions. The assertion, that the administration of criminal justice in the United States is a failure, is the assertion of a fact.

#### WHY?

The recognition of the condition leads to the asking of pertinent questions: Why are so many murders, robberies and other major felonies committed?

Why do so large a portion of those who commit them go undetected?

Why do so many of those who are caught escape conviction?

Why are so many of those who are convicted allowed to return to prey again upon the community?

There is no one answer to all or to any one of these questions. Crime and the present breakdown in the administration of criminal justice, like poverty, have many causes. We are not likely to make progress in gaining control of crime until we recognize this diversified character of the causes of our present unfortunate condition. The first step towards this control is to analyze these causes. When any one distinct cause is recognized, there can be reasonable hope of intelligent action to abolish it or to mitigate its effects.

And yet the instinct to find a single and quick solution of present difficulties is hard to eradicate. Ask almost

any person of apparent intelligence regarding this present crime wave, and if he does not select as scapegoat the World War, or—according to his feelings towards the 18th Amendment—prohibition, or lack of enforcement of prohibition, nine times out of ten he will assert that the causes of the trouble are the unscrupulous lawyer and the law's technicalities and delays. But if the police fail to detect the person who has committed a crime, the real or supposed niceties and technicalities of the law, or the asserted willingness of a criminal bar to use perjured testimony to obtain acquittals, are not in that case responsible for the non-enforcement of the law. It is clear that lawyers as a class are not responsible for a police organization that is often corrupt and has failed to develop an adequate detective system; neither are they especially responsible for the wholesale pardons which disgrace the records of many of our states, or for the failure to use available scientific knowledge for the detection and segregation of persons who, unrestrained, are practically certain to commit serious felonies. And yet it is these things and others like them, rather than the technicalities and verbal niceties of the lawyer, which are mainly responsible for the mess we have made of our administration of criminal justice and of crime prevention, detection and punishment.

#### LEGAL PROFESSION AROUSED TO DEFECTS

I have no desire, however, to shirk the just share of responsibility of my profession for existing defects in the administration of criminal justice. The legal profession is largely responsible for what is known as criminal procedure, that is the law and court rules which regulate the arrest, indictment and trial of accused persons, and the appeals from convictions in criminal

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cases. In this criminal procedure there are many defects. In recent years there has been a steadily increasing recognition of this fact by leading judges, practicing lawyers and professors of law. The American Bar Association and state and local bar associations have appointed many committees of investigation and recommendation. This is an encouraging fact, because those who know the law, administer it and practice it, once they recognize defects in procedure and their own responsibility to secure improvement, are not only the persons best qualified to suggest remedies, but on their adoption, they are the only persons able to insure that the remedies will be effectively applied. This is the reason for my assertion that the fact that the American Law Institute has undertaken to formulate a Model Code of Criminal Procedure marks a definite step forward.

The American Law Institute is the outstanding agency of the American legal profession for the constructive improvement of law and legal administration. Its two classes of members—life members and representative members—include the foremost judges, law teachers and practicing lawyers in the United States. Life membership is a high professional honor. Among the official members are the judges of the Supreme Court of the United States, the chief justices of the highest courts of the several states, the senior judges of the nine Federal Circuit Courts of Appeal, the deans of the principal law schools, the President and Executive Committee of the American Bar Association, and the presidents of the state bar associations.

#### WORK OF INSTITUTE ON CRIMINAL CODE

The immediate reason for the establishment of the Institute was not the

reform of criminal procedure, but the desire to give orderly expression to the common law by its careful Restatement and thereby to remove the chief causes of its uncertainty and complexity. The success which at once attended the efforts of the Institute in this most important work gave rise to the question whether the Institute could not be used as the agency through which the legal profession could operate to remedy those defects in criminal justice for which the Bar is primarily responsible, namely, the defects in criminal procedure. A year ago the Institute received from the American Bar Association, the Association of American Law Schools and the American Institute of Criminal Law and Criminology requests to undertake the production of a Model Code of Criminal Procedure. The necessary financial assistance has been furnished by the Laura Spelman Rockefeller Memorial and the work is now under way. While it will take about three years to complete the Code, it is not unlikely that portions which will deal with matters in which reform is most needed will be published before the Code in its entirety is finished.

As stated, the matters dealt with in the Code will include all proceedings from arrest to the final disposition of an appeal from conviction. The method by which the Code is being produced is similar to that which the Institute is using in making the Restatement of the common law. The Council of the Institute have appointed two Reporters for Criminal Procedure, William E. Mikell, the Dean of the Law School of the University of Pennsylvania, and Edwin R. Keedy, ex-President of the American Institute of Criminal Law and Criminology, and also a professor of law in the same University. Those familiar with recent work done in criminal law and procedure will realize that the two Reporters selected are leading

students and experts of the subjects with which the proposed Code purposes to deal.

The Reporters are primarily responsible for the preparation of what are known as preliminary drafts of the different parts of the Code and the accompanying Commentaries. These preliminary drafts are submitted to a group known as Advisers. The members of this group consist of persons well known for their work in criminal law administration such as Judge Olson, Chief Justice of the Municipal Court of Chicago, ex-Governor Herbert S. Hadley of Missouri, Henry L. Stimson of New York who, as Federal District Attorney, conducted such successful prosecutions as those arising out of the sugar trust frauds and the operations of Morse, and Judge Nott of New York City, the justly famed and respected judge of an important criminal court.

The Reporters and their Advisers will work over successive preliminary drafts at conferences each of which will last several days. As each part of the Code is finished to their satisfaction, it will be forwarded to a Special Committee of the Institute, and when approved by this Committee, it will be submitted by them to the Council of the Institute. The Council is composed of some thirty-three members. On it are such men as Root, Wickersham, Milburn, Byrne, Cardozo, Stone and Hughes—men who represent the legal profession in the best sense of the word. The drafts have to be approved by the Council. If anyone thinks that, because the Council is composed of men much immersed in great affairs, their approval is a perfunctory matter, he would change his opinion if he could attend day after day from 9:30 to 5 in the afternoon such a meeting of the Council as was held last December and listen to the discussion on each section

of the drafts of parts of the common law submitted for their approval.

Before any part of the Code can be published as an official publication of the Institute it must be approved not only by the Council, but by the members of the Institute. The first draft of any matter submitted by the Council to the Institute is always a tentative draft. The Institute does not plan to publish officially, as final drafts, parts of either the Restatement of the law or the Code of Criminal Procedure until opportunity is given for outside criticism. The plan on which the Institute works is to submit preliminary and tentative drafts to larger and larger groups of lawyers, withholding final publication until a draft is approved not merely by comparatively small groups of experts and leading lawyers and judges, but by the preponderating weight of legal professional opinion in all parts of the country.

At present preliminary drafts of the first parts of the Code are in course of preparation. These first parts relate to arrest, preliminary hearing before magistrates, bail, method of prosecution, grand jury and indictment. The most interesting things in connection with these parts of the Code are bail and indictment. In most states it is in connection with these subjects that we find the most urgent need of reform. The spectacle of a man accused of almost any crime, short of murder, carrying on his criminal career while out on bail, or the spectacle of a person unquestionably guilty as charged being freed on appeal after conviction, because of some technical omission in an indictment which in no wise tended to confuse the accused as to the charge he had to meet at his trial, is not, to say the least of it, one calculated to make us proud of the functional efficiency of our government.

I have spoken of the work in which

the Institute is engaged as a Code of Criminal Procedure. The use of the word "code," while in view of the nature of the work technically correct, may give a wrong impression. It is a code in the sense that its provisions regarded as a whole will cover all of criminal procedure as that term is properly understood. The arrangement, however, will be such that the proposed Code may be also regarded as a series of statutes, each statute dealing with a special subject. This arrangement is necessary because the defects in criminal procedure in the United States are not identical in all states. Thus, in some states there are technical requirements for the indictment, or formal charge of crime, as a result of which a misspelled name, or similar immaterial mistake, has caused the freeing of some rascal on appeal after conviction, though he richly deserved punishment. In other states the judge, by constitutional or legislative provision, is prohibited from commenting on the evidence or even instructing the jury on matters of law where the instruction has not been especially requested by the attorneys in the case, the restriction acting as a serious impediment to the efficient working of the jury system. And so we might go from state to state finding that hardly any two states had an identical list of procedural defects.

Now it may be that sufficient popular and legal professional enthusiasm for the Code as a whole can be aroused to induce one or more states to adopt it as a whole. This, however, is not likely to happen—at least until several years after final official publication by the Institute. It is natural that each state should be interested primarily in its own defects. Whether any one state will consider the adoption of the Code as a whole, or confine itself to the consideration of those portions of the Code

which relate to the most obvious defects in its present procedure is not a matter of special importance. The significant and important thing is the fact that the undertaking of the work by the American Law Institute is an assurance that the weight of legal professional opinion and influence will be behind any reforms recommended. The people of the United States have a right to look to the legal profession for intelligent guidance in matters pertaining to the so-called adjective or procedural law. This work on criminal procedure, just as the Institute's far larger work on the Restatement of the law, is evidence that the legal profession is now alive to its public responsibilities.

All this is encouraging. It is so much to the good. But it would give you a distorted, though roseate, picture, if I left you with the idea that the existing defects in criminal procedure, even though those defects formed much less than a fifty per cent fraction of the defects of criminal justice in the United States, were in a few years to be entirely done away with by the work of the American Law Institute and the unselfish labors of the legal profession generally. There is more than one obstacle to the quick and certain full realization of improvements which would be desired by any intelligent student of existing criminal procedural conditions.

#### EXISTING OBSTACLES

In the first place we Americans are cursed, as well as blessed, with written constitutions. The blessings are numerous and obvious. We love, and rightly, to dwell on them. But there are curses just the same, and one of the chief of these curses is that no remedy for any governmental or social evil can be discussed, either by the man on the street or by the expert, on its merits. Instead of focussing our attention ex-



clusively on what is best, we are always forced to consider what is constitutional. The reform of criminal procedure is no exception to this rule. Indeed, more than most subjects, any remedy to almost any existing evil tends to raise a pandora box of unanswered constitutional conundrums, some of them arising from the provisions of the Federal Constitution, but most of them from the numerous provisions of our state constitutions. Take, for instance, the question of bail to which I referred a moment ago. Every state constitution has some provision on the subject, and while several states or groups of states have almost identical provisions, taken as a whole, there is much diversity. Provisions of the proposed Code on the subject tending to obviate an existing abuse may be constitutional in some states, but not in others. Or take what is known as the "third degree," that system of mental torture by the police to extract information from the accused. Should we substitute for it a system by which the accused can be formally interrogated by a magistrate or judge and his replies taken down and submitted to the jury at his trial? Here again, the question cannot be considered solely on its merits, because we are confronted with innumerable constitutional difficulties arising from provisions against a person being compelled to testify against himself. Thus, while the Code of Criminal Procedure to be produced by the American Law Institute will not suggest any modifications of constitutional safeguards essential to protect the innocent from conviction, in many states all existing defects in criminal procedure cannot be remedied without the adoption of amendments to the state constitution—a process frequently involving years of tedious delay.

In the next place we are a people hav-

ing all the advantages and disadvantages which spring from our legislatures being organized on the committee rather than on the cabinet system. All bills introduced are automatically referred to the appropriate committee. Any bill not involving the expenditure of money or a question of a political nature is almost sure of being adopted if it is returned by the committee with a favorable report. This is especially true of a short bill which relates to a matter on which the average legislator is not apt to have either knowledge or opinion. Now, members of the legislature are human. The legal members are no exception to this statement. Furthermore, there are many legislators who are engaged in the active practice of the law. It is a natural result of all this that there not infrequently arrives in the legislature a representative who has just had the experience of failing to secure an acquittal of his client because the natural result of his eloquence on the jury was marred by some ruling or other conduct of the judge presiding at the trial. The outraged representative introduces a bill prohibiting all judges thereafter from following the example of the judge to whose conduct he objects. Thus in many of our states the legislative changes in criminal procedure represent the desires of lawyers for the defense who wish to reduce the judge, when an issue of fact is submitted to the jury, to the position of a police officer at a prize fight, the contestants being the lawyers. Many of the evils which surround the trial of some notorious criminal case, which rightly make the layman distrust the efficiency of our courts, are due to the fact that the legislature has little by little made it impossible for the judge so to act that justice can be judicially administered. It has changed the trial by jury, as known to our ancestors, from a system designed to discover the

real facts into a system to test the skill of the lawyers for the state and the defense.

And one of the most discouraging things in connection with any attempt to improve criminal procedure and to do away with these conditions is that in spite of the rising tide of crime there is no present sign of any abatement in this kind of legislative tinkering with procedure. Thus, there is now pending before Congress a bill, known as the Caraway bill, which prohibits any Federal judge, when an issue of fact is being tried by a jury, from expressing his opinion on the credibility of the witnesses or the weight of their testimony. A bill, in short, which would silence the only person at the trial who by any possibility can speak to the jury with an impartial voice. It embodies a rule unfair to the prisoner at the bar whose limited purse prevents him from hiring an experienced and able advocate to plead his cause, though the state may be represented by a forceful district attorney whose political future depends upon successful conviction. On the other hand, it is often unfair to the state when a defendant accused of crime has the financial ability to secure the foremost legal talent. Whether the bill will be passed by the present session of Congress I do not know. At the last session a similar bill passed one House and was only prevented from

passing the other by the congestion of legislation. It will unquestionably take an aroused legal professional and public opinion to defeat it, though I am glad to state that the two distinguished lawyers who represent Pennsylvania in the Senate and the distinguished lawyer, also from Pennsylvania, who is Chairman of the Judiciary Committee of the House, are prepared to do all they can to defeat it.

#### THE BRIGHT SIDE OF THE PICTURE

Enough, however, of things discouraging. The bright side is that the very badness of existing crime conditions has aroused the leaders of the Bar to put forth intelligent effort to improve those conditions for which the profession is responsible. The lawyers of the country are at last making an effort to correct defects in criminal procedure. At the same time, the people are thoroughly aroused. They are insisting, and rightly, that something shall be done to control crime and to secure the detection and conviction of those who commit crime. May we not have a right to hope that the conjunction of these two things, in the next few years, will go far to take away the evil results of our present failure to efficiently perform one of the most important governmental functions—the administration of criminal law?

## Criminal Procedure—Defects in its Administration

By WILLIAM E. MIKELL

Dean of the Law School, University of Pennsylvania

THE term "criminal procedure" is sometimes loosely used as synonymous with "administration" of the criminal law. "Administration" embraces "procedure," but it also includes such matters as the organiza-

tion of the courts and police force, methods of punishment, systems of probation and parole and many other matters that are not a part of "criminal procedure" proper.

I shall here confine myself to pro-

cedure proper, *i.e.*, to legal proceedings used in enforcing the criminal law, from the arrest of the accused to his conviction and sentence.

Our criminal procedure was, in the main, inherited by us from England, except for two important features—the public prosecutor and the appeal.

While there is substantial uniformity in the main features of criminal procedure in all our states, many minor differences exist, and it is due to these variations in part that the differences in effectiveness in the administration of the law exist in different states.

If we were indifferent to the conviction of innocent persons who managed to get themselves accused of crime, there would be no difficulty in having a system of procedure that would function 100 per cent in the conviction of the persons brought to trial, and that without delay; but it must be remembered that a perfect system of criminal procedure, while it would infallibly convict the guilty, would just as infallibly acquit an accused innocent person. The problem is to so balance the system that as nearly perfect an instrument will be had as is possible.

#### WHERE REVISION IS NEEDED

Due to historical reasons that cannot be gone into here, the provisions for safeguarding the innocent accused person have grown out of proportion to the accusatory provisions, and so the system has been thrown out of balance with the result that too many guilty escape conviction. Indeed the defects in the system appear before the accused is even put on his trial. They appear in the matter of bail. It is very important that there should be provisions for releasing an accused person on bail, otherwise innocent persons accused through malice or because of mistaken zeal on the part

of the prosecuting officers acting under the spur of public opinion in times of "crime waves," or because of incriminating circumstances, would languish in jail for months or even for years until crowded court calendars permitted of their being tried and released. Our present system of bail, however, needs overhauling. Aside from the evils of "straw" bail, it is not an uncommon occurrence for a person under indictment and at large on bail for one crime, to be arrested for another crime and be admitted to bail a second time; and this may continue almost indefinitely. Many persons doubt if bonding companies should be permitted by law, as now, to furnish bail, or even if cash bail should ever be allowed.

Methods of prosecution for crime should be re-examined. In a majority of the states of the Union a charge of crime is first investigated by a magistrate and, if a *prima facie* case is made out against the accused, he is held for a second similar examination by the grand jury, which may discharge him, though the magistrate has determined that there is a *prima facie* case against him. If the grand jury agree with the magistrate, they may hold him for trial, but even then the prosecuting attorney, in some states in his own discretion, and in others with the concurrence of the judge, may *nol. pros.* the case. Are all these safeguards, as some call them, or chances of escape, as they are called by others, necessary? Opinions differ, and some states have practically eliminated the grand jury as a prosecuting agency.

If the grand jury indicts, it does so in a formal instrument about which there grew up as pretty a set of technical legal rules as the minds of the old schoolmen could devise. Many of these rules still exist, hampering the courts in their administration of the

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law and resulting, after the conviction of the defendant, either in the discharge of the defendant or in what frequently amounts to the same thing, a new trial, with the consequent delay, expense and chances of acquittal due to the absence of witnesses, decreased vigor of prosecution, and other circumstances. There is much that can be done in simplifying indictments and in abrogating technical rules of law governing them.

The rules of law governing the actual trial of a criminal case could be improved in many particulars; this is especially true of the rule, existing in all but a very few of our states, which prevents the trial judge from commenting on the evidence introduced during the trial. The rule, almost universal in this country, that the refusal of the defendant to testify in his own behalf cannot be commented on before the jury, is likewise much criticised and should be restudied, as should the rule in force in a majority of states requiring a unanimous verdict for conviction. The law governing verdicts contains technicalities that could be eliminated without depriving the defendant of any substantial rights; and the law relating to appeals could be improved. Indeed, what is needed is what has been planned by the American Law Institute, the preparation of a complete model code of criminal procedure.<sup>1</sup>

There has been a disposition in some quarters to question the advisability of proceeding with the drafting of such

a code until elaborate country-wide surveys have been made. It is well that such surveys should be made; they will serve to focus the attention of the public on some of the defects in our existing law of procedure, though most of the defects that exist in procedure proper as distinguished from other matters of administration can be gleaned from the "Reports."

One has only to consider the time required and the money expended in the survey made in the single city of Cleveland a few years ago to see that it would require hundreds of thousands of dollars and a generation of time to complete a survey of the entire country. It is much more practicable to proceed with the formulation of a code that will correct the defects already known to exist than to wait thirty years to discover whether others exist or not, so that they may be included. It is not necessary to make an elaborate investigation to determine whether a rule of law is bad that reverses the conviction of a murderer because the indictment omitted to state that the person killed was a "human being."<sup>2</sup> Such a rule, and many others existing need only to be stated to be recognized as being an artificial handicap to the effective administration of justice. Let us correct these defects that are known to exist, and when others, not known, appear a generation hence, as the result of the proposed investigations, they can be provided against by additions or amendments.

<sup>1</sup> See article by William Draper Lewis, p. 85.  
—THE EDITOR.

<sup>2</sup> *People v. Lee Look*, 137 Calif. 590.



## Suggestions for Reform in Criminal Procedure

By ALAN JOHNSTONE, JR., ESQ.

Baltimore, Md., formerly Managing Director Baltimore Criminal Justice Commission

**T**HE proposal of the American Law Institute to prepare a Model Code of Criminal Procedure is heartening. While no reform in procedure alone will solve America's grave crime problem, it will do much to restore confidence in the criminal courts. Such a development will do much to expedite the simplification of the substantive criminal law itself which is more fundamental. Moreover, it may perhaps inspire more rapid progress in our methods of police which is of even greater importance. Procedural reform will certainly, too, enable the utilization to better advantage of our present overburdened and inadequately trained police and detective forces, now constantly checkmated and defeated by outworn and antiquated provisions in the law of procedure dignified by the misnomer of "technicalities."

Certain suggestions for changes in procedure may be helpful not because they are novel but because they are reinforced to some extent by some observations of the administration of criminal justice in one of our principal cities. They may best be stated in the order of their sequence in the ordinary criminal case.

### WHEREIN REFORM IS NEEDED

The present law and method of arrest is much confused. The usual common law rules are certainly "more honored in the breach than they are in the observance" in the average American city. Unlawful arrest is more usual than otherwise because, for instance, it is manifestly impossible that the average officer shall witness a con-

siderable percentage of the misdemeanors as to which he is called upon to act or to secure warrants in time to apprehend fleeing criminals. A sensible restatement of the law and procedure of arrest in the light of present-day urban conditions is needed.

The irritating spectacle of the accused in a criminal case complacently remaining silent with no right on the part of the state to interrogate him has given rise to the "third degree" methods of the police. The latter practice has led to the widespread suspicion of any information which comes from the accused while under arrest and its actual exclusion as evidence in some jurisdictions. The point at issue following an arrest is the guilt or innocence of the person accused. He has more information on the point than anyone else. If innocent, it is to his advantage to speak. If guilty, no fancied theory for his protection should thwart the authorities in the endeavor to establish his guilt. The right of the state to formally interrogate the accused before a judge at the preliminary hearing and to present the record of his replies or failure to reply at his subsequent trial should be clearly established.

The theory of bail is that the accused is entrusted to the custody of a bondsman who will procure him on the call of the court. The practice in all too numerous cases is that the accused is released on the pledge of a money value which he and the bondsman, by previous arrangement, are quite willing to forfeit for non-appearance. It is frequently also an arrangement to enable a confirmed criminal to continue

his career in order to provide funds to pay the fees of the bondsman and his counsel. A rule established by the court in one jurisdiction, that no property may be pledged as bail in more than one case at a time and that no bondsman with outstanding forfeitures against him is acceptable, is so simple and effective that it may well become a part of the law of procedure as to bail.

The multiple hearing of criminal cases is time-consuming and wasteful. The inferior criminal courts in the United States are notoriously inferior in the ability, training and character of their judges, as well as in their jurisdiction. One of the most pitiful spectacles in our municipal life is that of a horde of offenders, which we have been at great pains and expense to detect and arrest, passing through the meshes of our police courts which venal machine politicians with their army of "fixers" have been at equal pains to make large enough to provide easy egress. The useless detention of innocent accused persons and the waste of time of witnesses is also not inconsiderable. There is no sensible and defensible reason why the court of first instance should not be empowered to render final judgment in every criminal case brought before it and why one hearing should not suffice in all except a negligible number of cases. This may be accomplished by the abolition of the inferior criminal court and the establishment of a consolidated criminal court as Detroit has done.

The constitutional provision for indictment by grand jury is essentially a right and not a requirement. There is no valid reason or consideration to prevent the inclusion of a provision for the voluntary waiver of indictment with the consequent trial on information, as is the practice in certain misdemeanor cases in the Federal courts. Indeed, such is the practice in Mich-

igan, although the right to demand an examination of the facts by a grand jury prior to trial is probably existent.

Such arrangement for the waiver of indictment would undoubtedly result in the elimination of indictment with the consequent saving of an additional hearing or review in a great volume of cases.

For more than a century under the constitution of Maryland the accused has been privileged to elect whether he shall be tried by a jury or whether by the court alone. This expedient has resulted in the great majority of criminal cases being tried without a jury, ninety-three per cent being thus tried in 1925. As a consequence the criminal courts of Baltimore were able, when supported by an aroused and intelligent public opinion, in 1925 to dispose of ninety-two per cent of the cases within three weeks of arrest. Only twenty-four triable cases remained on the docket after the end of the court term, a volume of 5057 cases having been disposed of. This development was aided, it is true, by a reform in the fiscal affairs of the State's Attorney's Office—namely, the abolition of the antiquated and indefensible fee system—but it could not have occurred without the jury waiver arrangement.

The selection of the trial jury and the prevalent inequality between the challenges available to the accused and to the state is frequently the cause of much delay and the means of the defeat of justice. In hotly contested cases days and sometimes weeks are thus consumed. A method by which the court and not counsel should examine the members of the panel and select the jury would cure this defect. It is manifestly proper to provide for the state and the accused an equal number of pre-emptory challenges.

To confer on the trial court power to amend the indictment or information

at any stage of the trial where the rights of the accused are not prejudiced thereby, would seem to require no argument. The simplification of the indictment itself so as to eliminate its outworn verbiage and formal allegations would contribute much to clarity and the lack of necessity to amend.

To allege that the crime was committed "with force and arms" "against the peace and dignity of the state" "with a certain deadly weapon, to wit, etc.," "unlawfully, wilfully and with malice aforethought" and "in the county and state aforesaid" would all seem to be a harmless concession to the formalist and the printer were it not for the fact that the books are filled with cases of convictions set aside because the indictment lacked one or several of these magic words.

The prohibition against the trial judge commenting on the facts deprives the jury of the benefit of the interpretation of the testimony by the only disinterested and presumably the

best trained official at the trial. The Federal practice which permits such comment within proper limits has so demonstrated its value as to merit inclusion in a Model Code.

Appeals are costly and time-consuming. The English practice of trying appeals on the original records, accompanied by a typed transcript of that part of the testimony or ruling in which error is charged, together with the return of the trial judge thereon, is the answer to many of our appellate court problems.

Difficulties in the way of the widespread adoption of such provisions will, of course, be numerous. Constitutional obstructions, inbred traditions, and natural inertia are powerful obstacles. But such a simple, scholarly and authoritative statement of them as we may expect from the American Law Institute may contain such inherent and persuasive force as will, in this new day of aroused interest that is upon us, break through these obstructions.

## The Problem of Criminal Procedure

By JUSTIN MILLER

Professor of Law, University of Minnesota

**P**RESENT interest in the whole subject of crime, and particularly in the administration of criminal law, has brought with it the problem of working out constructive changes in existing procedures. The problem is so complex that some people are frankly skeptical of the value of any model code of criminal procedure which may be prepared. On the other hand, there is so much need of improvement that it is difficult to see how any such work, done in a scientific manner, could

fail to accomplish desirable results.

It must be admitted in the first place that the work of preparing a model code is not a mere matter of restatement. There are so many present ideas of the right way in which certain steps in procedure should be taken that a deliberate selection must be made as to each one of them upon grounds largely of policy and convenience. A good example is to be found in the case of appeals from trial courts on behalf of the state. The ideas of different

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jurisdictions on this point range all the way from the one extreme of permitting no appeal or review of any kind under any circumstances to the other extreme of permitting the state to appeal under the same circumstances as the defendant. It is equally difficult to say just what changes are most needed, because what is greatly needed in one state may be a long accomplished fact in another. Each state is jealous of its own ideas and we frequently find in one state a method which justifies itself in every way, while just across an imaginary line in another state there shines in all its original lustre an antiquated method so cumbersome, so slow and so inadequate that the facts cry out against it.

#### DIFFICULTIES IN REVISION

Perhaps the greatest difficulty of all lies in determining to just what extent each existing method is contributing to inadequacy in the administration of the law. This administration has been likened to a great net with many defective meshes through which fish of all sizes and varieties are escaping. It is easy to see that during the earlier stages of prosecution, when large numbers are being handled, a defective mesh may let out large numbers of fish which should be retained. On the other hand it is no doubt true that many who are lost are innocent or at least not clearly guilty. During the later stages of procedure the loss in numbers may be much less, but the probability of guilt of those who escape at this time is much greater. It is therefore hard to say which phase of the subject most needs attention. My judgment is that we can well put our best repairmen to work all along the line.

In connection with some processes it is easy to say, "Here is an easily demonstrable loss." Such is the situation with regard to ineffective methods

of detection and apprehension, lack of proper understanding and co-operation between police and prosecutors, abuse of the bail-bond and failure to prosecute where bail is forfeited. In such cases changes should be made which will eliminate so far as possible the chance of loss or escape. Here is a definite task and the difficulty lies in working out a suitable remedy. In connection with other processes, it is very difficult to demonstrate what particular practices are causing definite losses. In this class can be put those advantages which the defendant possesses over the state at the time of trial, such as the right of a defendant not to be required to testify; the duty of the state to prove guilt beyond a reasonable doubt; the presumption of innocence; the right of the defendant to have an acid-tested statement of the charges against him while he is not required to reveal any of his defenses; the duty of the state to reveal the names of its witnesses while the defendant is not required to reveal his. About the only approach which can be adopted as to these practices is to say, "Guilty men seem to be escaping during the whole course of this trial process; it is impossible to say just what is making escape possible in each case, but it is obvious that the defendant enjoys a number of very substantial advantages,—probably all or several of them are contributing to each escape. If these advantages can be eliminated or reduced the probability is that the escape of guilty men will be lessened." The question then becomes one of determining which, if any, of the advantages referred to are no longer necessary or justified by present conditions and which of those the people can be persuaded, through their legislatures, to do away with.

One of the greatest difficulties in the way of making a fair appraisal of the



present procedure lies in the fact that much of the present weakness in administration is caused by poorly trained and poorly chosen officers and the lack of administrative supervision and leadership. So long as this condition exists it is doubtful just how much can be accomplished by changes in rules of procedure. This is particularly true of those earlier stages of procedure which include detection, apprehension, development of evidence, and the use of the bail-bond. It is necessary, in order to have a just and intelligent administration of criminal law, that considerable discretion should be vested in the administrative officers. This is necessary in order that prompt elimination may be made of spite cases, extortion cases and others of like character with which officials are well acquainted. Any system of procedure must recognize this situation and make provision for it. The obvious implication which

comes out of this, however, is that a matter of importance quite as great as that of procedure is the provision of properly trained and selected officers, both police and prosecuting, under intelligent supervision and direction.

In general we can say that anything which now exists in our procedural law which contributes to delay in prosecution, anything which divides responsibility of administrative officers, or prevents effective co-operation between them, anything which makes possible, by reason of lack of adequate supervision or direction, the use of underground influences, political or otherwise, on witnesses, prosecutors, police, judges or pardon officials, contributes to defeat a proper administration of the criminal law and becomes an appropriate subject for change through the instrumentality of a model code of criminal procedure.

## A Plan to Relieve the Congestion in Our Criminal Courts

### A Judicial Reserve

By MOSES H. GROSSMAN, ESQ.  
New York City

"There are three points to be considered in the construction of all remedial statutes: the old law, the mischief, and the remedy."<sup>1</sup>

SO wrote the great commentator on the laws of England one hundred and fifty years ago, and the rule which he thus laid down for the construction of remedial statutes, and which is still quoted and applied to-day, is equally applicable to the preparation of such statutes. In discussing the subject of

aiding in the control of crime, therefore, I shall consider, first, the mischief, or the evil; second, the cause, the present situation; and finally, the proposed remedy.

So much has been published recently about "crime waves," and the assertion is made so frequently of an unusual criminal situation, that few people realize the truth. The fact is that for many years crimes of violence have been far more frequent in this country than in other civilized countries.

<sup>1</sup> Blackstone 1:87.

## THE PENALTY OF DELAY

There are, of course, a number of causes for the disgraceful conditions as to crime in this country, but I shall only discuss one of them here, a most important one however, the delay in the administration of justice. The delay is notorious, but no one can realize its extent and its prevalence in both Federal and State courts, unless he has examined the facts. Chief Justice Taft did not exaggerate when he said, a few years ago: "The administration of criminal law in the United States is a disgrace to civilization," and no small part of that is due to the delay in bringing to trial those charged with crime.

This delay not only encourages those inclined to crime, but inflicts a gross injustice on the innocent who lie under charges. Justice is as inalienable a right of man as is life or liberty, because injustice, or the absence of justice, robs men of their lives, deprives them of their liberty, and makes impossible the pursuit of happiness. Courts are created under the law to produce this wonderful commodity to which men are entitled. The very purpose of the establishment of the criminal courts is to punish the guilty and remove the stigma of an indictment from the innocent. Courts must be speedy in their administration of justice, because delay of justice is a denial of justice. This is axiomatic. Men die, and the stigma of an indictment sticks to their names. Witnesses disappear; evidence gets lost; the memory of witnesses fails. What is worst of all, a delay in the administration of justice, particularly in the criminal courts, provokes a disrespect for law, and disrespect for law is the cornerstone of revolution.

In his address to the General Court in January of this year, Governor Fuller of Massachusetts called the

legislature's attention to this condition as follows:

The law of stage coach days occupies too large a place upon our statute books. It should be replaced by modern legislation which will be capable of handling twentieth century conditions. . . . Prompt, vigorous and effective prosecution would speedily make crime less prevalent. Apprehension of the criminal must be certain; prosecution must be inevitable; and adequate punishment must promptly follow if the criminal law is to be restored to the respect of the people and made effective for their protection.

## REMEDIAL DIFFICULTIES

The reason for the congestion in our calendars, which is the cause of the law's delay, is that all criminal cases must be tried by a limited number of judges. You may liken cases to the gallons of water in a great big bottle, and the judges may be likened to the neck of the bottle which limits the outflow of the contents. Now it is perfectly plain that to empty the bottle more quickly, you must either widen the neck of the bottle or you must lessen the inflow. Since the latter is, for the most part, beyond our control, the former is the only course to adopt.

A very serious difficulty in providing the remedy for this condition, sufficient courts and judges, is the unwillingness of the public to incur the additional expense.

The like evil of congested calendars and delay in actions of a civil nature has been met by providing for arbitration. As a result of the movement, with which I have been associated for years, the Federal Government and several states—New York, New Jersey, Massachusetts and Oregon—permit the parties to a controversy to select their own judge, confer upon him all the powers of a judge of the Supreme Court of New York, and then sit down and in an hour, a day, or a week, have a final,

complete, lawful determination of their case, so complete and final that a judgment may be entered upon it, final to the extent that it may only be set aside for bribery, corruption or other grave misconduct.

The same principle can be applied to criminal cases. In such cases the issue is between two parties, one the great commonwealth, the state or the nation, represented by district attorneys and police departments, with an unlimited treasury, and on the other hand one of the people, native or foreign-born, charged with a crime. We have a situation in which a third party cannot be called in as an arbitrator, because the state is a party; but we can adopt the principle of arbitration and apply it to criminal calendars; in other words, we can widen the neck of the bottle, double, triple, quadruple, or quintuple,—widen it as much as you please without any expense to the taxpayers worth mentioning. If we do that, if we can show the people of the nation that they can get good judges in point of character, knowledge and attainment, equal to that of the men upon the bench who are now elected or appointed, and get them for nothing or practically nothing, the people will undoubtedly be willing to take them, because they will not be burdened with more judges who are getting increased salaries and long terms.

#### SUGGESTED REMEDIES

My plan is this: Supposing, as the fact is, that we have in New York 18,000 lawyers. Nine are taken out of the body of the Bar and placed upon the Bench of the Court of General Sessions, leaving nearly 18,000. I do not think that any one, no matter how much respect he has for the judges of the Court of General Sessions, will assert that the Bar has been terribly

weakened, nor say that there are not nine, or twenty, other men at the Bar equal, in point of character, knowledge and judicial power, to the nine who have been placed there by popular vote, because we still have the Elihu Root, the Paul D. Cravaths, the Guthries, the O'Briens and very many men who have spent many years—more years than any judge—upon the Bench of the Supreme Court, of the Appellate Division and the Court of Appeals, and are now back in practice in the body of the Bar. The label "judge" does not change the character or knowledge of a man. When he ascends the bench and is given the label he has a certain amount of character, intelligence, knowledge and experience. When he comes back into practice he comes back with increased knowledge, experience and reputation. We have plenty of them at the Bar driven back because the emoluments of office were insufficient, because they felt an obligation to their families. These will constitute a part of this appointed elastic judiciary of my plan.

I suggest the introduction of bills in the state and Federal legislatures, providing that the executive, the governor of this state and the President of the Nation, be authorized to appoint men selected from the leaders of the Bar, especially those who have had experience on the bench or in criminal law, as auxiliary judges or a judicial reserve to handle criminal cases.

The Federal bill would provide for the appointment of not more than ten of these auxiliary judges, or Federal Reserve judges, for any district. At any time when the criminal calendar became congested, the presiding judge for that district would be authorized to call upon one or more of these additional judges to serve for a brief period, one, two, three or four weeks as might be necessary. There is an abundance

of men of the very highest standing and experience in their profession, who would be willing to serve for a nominal compensation, as did the dollar-a-year-men during the war, because of their love for and their feeling of obligation to their profession. I know this is so because I have their earnest support in my suggestion. It would, however, probably be wiser to pay them for each day which they serve the proportionate amount of the salary paid the district judges during the year. Whenever such a judge was called upon, he would take his place upon the bench and serve for the time for which he was called into service by the presiding judge. Aside from the small compensation paid to him, the only additional expense would be providing necessary assistance to the United States District Attorney, and additional courtroom space and attendants, in case none of the regular courtrooms should be available. In this manner several criminal parts could be sitting at one time, instead of having only one judge to try criminal cases, and that only part of the time, which is the present condition in this Southern District of New York with its large population.

To relieve the congestion in the state courts of New York, in particular in the Court of General Sessions, it would probably be necessary for the legislature to establish a new court for the county of New York (and perhaps similar courts in one or two other counties), to be known as the Court of Quarter Sessions, or Oyer and Terminer, or some similar well known title. Under the new judicial amendment of the Constitution such courts may be established by the legislature, but cannot be courts of record nor be given greater powers than those given to the county courts. The probable procedure with this court would be for the

judge presiding at Part 1 of General Sessions to be authorized, when in his judgment it is necessary, to call upon one or more of the judges of this court to serve for a limited time. Upon motion of either the district attorney or the defendant, any of the cases pending in the Court of General Sessions could be transferred to the new court, for trial before the judge thereof; either a jury would be empanelled in General Sessions and then directed to appear before the judge holding the new court, or the jurymen summoned for General Sessions be directed to appear before him; and the trial could then proceed as in other criminal courts. In view of the congestion which has frequently occurred in the state courts, especially when some of the parts of General Sessions are occupied for a long time in the trial of capital cases, it would probably be well to have as many as fifteen or twenty judges appointed to this new court, so that a selection could be made of those whose engagements would permit of their serving for the necessary time to clear the calendar. The compensation to be paid to these judges, as in the Federal Court, would be fixed upon a per diem basis, so that they would only be paid while actually holding court. The only additional expense to the state would be in providing courtrooms, furnishing the necessary assistance to the district attorney, and the necessary attendants and officers for the courtrooms and enforcing the decisions.

When I first made this suggestion about four years ago, it received enthusiastic support from leading members of the Bar, as well as from organizations acquainted with and interested in the enforcement of criminal law and the improvement of criminal procedure, and the editorial approval of the leading newspapers in this city.



From the assurances which have been given to me I am convinced that there will be no difficulty in securing the names of persons of outstanding ability and experience who would be willing to serve, and the expense will be reduced to the lowest terms possible. This will be an opportunity for the community to secure, for merely a nominal sum, the services of its best trained lawyers, to accomplish prompt justice and thereby reduce crime to a minimum.

#### QUESTION OF CONSTITUTIONALITY

When any such suggestion as this is made, the first question which occurs to every lawyer is that of its constitutionality.

So far as the United States courts are concerned, the powers given to Congress by the United States Constitution are so broad that there can be no reasonable doubt of its constitutional power to establish the proposed auxiliary judiciary. Congress is given authority to establish tribunals inferior to the Supreme Court, the only conditions imposed by the Constitution being that the judges shall be appointed to serve during good behavior, and that their compensation shall be paid at stated times and shall not be diminished during their continuance in office.<sup>2</sup> It has been repeatedly held that under this clause Congress may establish such inferior

courts as it deems best. Certain existing statutes would, of course, need modification, as for instance that which prohibits those holding judicial office from private practice, but these changes are matters of detail in drafting the new statute.

As regards the state of New York, I have already referred to the provisions of the new judiciary amendment. By that amendment the legislature can establish inferior courts, with a jurisdiction not greater than that of a county court. The proposed jurisdiction of the new court will be less than that of the county courts. All such inferior local courts may be regulated or discontinued by the legislature. The only question that may arise is in regard to a sentence in Section 18 of Article VI as amended:

Courts of Special Session and inferior local courts of similar character shall have such jurisdiction of offenses of the grade of misdemeanor as may be prescribed by law, and the legislature may authorize them to try such offenses without a jury.

The proposed court would have other and greater jurisdiction than that of courts of Special Sessions, and would therefore probably not be held to fall within this sentence. As the need for relief of our criminal courts is so urgent, it would be well to pass such an act as this, and carry a test case at once to the Court of Appeals, so as to determine finally the power of the legislature under the amended Constitution.

<sup>2</sup> U. S. Const., Art. I, Sec. 8, Clause 9.

# The Baltimore Criminal Justice Commission

By JAMES M. HEPBRON

Managing Director of the Baltimore Criminal Justice Commission

IN August, 1922, one of Baltimore's well-known and highly respected citizens was held up, robbed of \$7000 and brutally murdered in broad daylight on one of the busy thoroughfares of the city. The bandits perpetrating this carefully planned crime escaped in a high powered car bearing stolen license plates.

## AN AROUSED PUBLIC

Baltimore was aroused and shocked as never before in its history. Feeling was at fever heat. The citizens of Baltimore, fearing for their own personal safety, were a unit in demanding the prompt capture, speedy trial and conviction of the guilty felons.

The well organized criminal element of the city, faced for the first time with a thoroughly aroused public, began tightening its lines of defense. Unscrupulous criminal lawyers, alibi, false affidavit and tip-off men, professional bondsmen and even corrupt members of the Police Department were hard at work.

Several important things happened in quick succession. A carefully planned scheme to thwart the police in the apprehension of the murderers was discovered and as a result Baltimore's most notorious criminal lawyer was convicted of conspiracy to obstruct justice and disbarred. Certain police officials rather closely identified with him were removed. An extra criminal court was opened and the task of clearing a much clogged docket was begun. Several professional bondsmen were convicted of perjury, following which certain new rules regarding the granting of bail were put into effect.

An aroused public in "taking stock" of the entire situation decided that something was wrong with the administration of criminal justice in Baltimore. It wanted the facts. As a result the Baltimore Criminal Justice Commission was organized. It is an unofficial body composed of representatives of twenty-one of the business, civic and professional organizations of Baltimore.

## WORK OF BALTIMORE CRIMINAL JUSTICE COMMISSION

Picture a great business the expenses of which are nearly \$4,000,000 annually. The business is concerned with a problem of first-rate importance, the protection of the life and property of the people of a great city. Its operating expenses are drawn principally from taxes. The business is the administration of criminal justice in Baltimore. How successfully and efficiently is the business conducted? To answer this question intelligently is the function of the Baltimore Criminal Justice Commission.

The administration of criminal justice is a single operation working through a number of agencies. The function of the police is to maintain order and to apprehend offenders. The state's attorney then takes up the thread, unless it has been broken at the preliminary hearing or by the grand jury. Then the courts and the prisons finish the task. Any weak link in the chain destroys the effectiveness of the whole. It is of no use to study any one part of the scheme without relation to the whole.

It is the tendency of each of these various agencies to study this process in

terms only of its own function. Thus the police department maintains a set of records by which we learn the number of arrests made and the disposition of those arrested. The grand jury records the presentments and indictments. The records of the state's attorney, police magistrates and the criminal courts show the number of acquittals and convictions and the sentences imposed. Then, too, the probation department, parole commissioner and prisons all maintain separate record systems.

Extended and accurate crime statistics are almost non-existent. Out of forty-eight states only fifteen make any pretense of securing crime figures. Then, too, even where figures are obtainable there is no standardized form of tabulation or terminology.

The Baltimore Criminal Justice Commission has since January 1, 1923, been maintaining a complete set of records (of felonies or serious crimes only) from which the situation in Baltimore can be studied.

From such a record system it is possible to get a complete picture of the entire situation: First, by knowing how many serious crimes are reported and what proportion of those reported crimes are solved by arrest and conviction; how many of those arrested were dismissed by the magistrates or handled in the juvenile court, how many were dismissed by the grand jury or whose cases were settled by the state's attorney and the number of convictions and acquittals, together with the percentage of cases in which probation was granted.

It can thus be seen that it would be of no great value to know simply how many people are arrested unless we know the proportion of arrests in relation to the volume of crime. Nor is it of any particular benefit to know how many people are convicted with-

out knowing the relation which the number of convictions bears to the number of arrests and the extent of crime.

#### INADEQUACY OF PROBATION DEPARTMENT

After such a co-ordinated record system had been put in operation, certain things became apparent which led to specialized studies by the Commission. For example, it was noted that of all convictions in serious cases during the first ten months of 1924 probation was granted in thirty-seven per cent of the cases. A study was then made of all the cases handled by the Probation Department, in which convictions were had in 1923, in order that it might answer two questions: First, to what extent the probation organization as then constituted was able to discharge its function? Second, what results by way of rehabilitation of probationers and the prevention of subsequent criminal careers were being secured?

With regard to the first question it was found that a staff of four white probation officers and one colored officer, with two assistants, were handling between 300 and 400 cases each and were working in cramped quarters in which a private interview was practically impossible.

Regarding the second question it was found that probation was granted in 395 criminal cases. Of this number fifty-three were placed on probation in charge of no one, nineteen in charge of some one other than the Probation Department, and in eighteen cases the Probation Department had no record of the persons placed on probation in its care.

An analysis was next made of the 305 criminal cases actually handled by the Probation Department. It was found that results were apparently satis-

factory as to fifty-five per cent of the cases, doubtful as to sixteen per cent and unsatisfactory as to twenty-nine per cent.

These results were largely reviewed from the standpoint of the probationer's re-arrest upon a subsequent offense, since no data were available to determine otherwise his probable guilt of an offense for which he may not have been arrested. If he had so offended, his chances of arrest at that time would have been one in three, as against one in two at present time.

In the compilation of these figures the records of the Probation Department, the statements of the probation officers and the statements of the probationers themselves were used in arriving at these conclusions. It is obvious that in considering the probationer's own statements as to his conduct the results of probation are being considered in the most favorable light. It must be understood, too, that in handling 300 or 400 active cases each, the probation officers in many instances know little other than what the probationer himself reported concerning his conduct.

Since the issuance of this report additional probation officers have been appointed and the number of cases in which probation has been granted has taken a most marked drop. During 1925 probation was granted in only three per cent of the cases resulting in conviction as against twenty-eight per cent for 1924. Thus probation has been reduced to proportions within the ability of the probation staff to handle properly and likewise greater care in the selection of probationers has materially increased the possibilities of probation proving successful.

#### RESULTING BENEFITS

Likewise a full knowledge of all the facts led directly to the abolition of

the fee system in the state's attorney's office (the legislative bill having been prepared by the Commission) and the placing of that office on a budget basis. To accomplish this an amendment to the Constitution was necessary. Facts supplied by the Baltimore Criminal Justice Commission formed the basis for editorials and news articles in more than thirty papers throughout the state, playing no small part in insuring the passage of the amendment. The benefits which the Commission pointed out would naturally follow this change are now a reality. The multiplying of indictments in order to pay the expenses of the office is no longer necessary. Consequently fewer "stets" are necessary and at present only one case in twenty-eight is stetted, as against one case in fourteen during 1924, whereas the prevailing ratio had previously been much higher.

It has always been the purpose of the Commission to be a fact-finding and not a fault-finding organization. It has continually pointed out many of the difficulties under which the police and other agencies work. When progress has been shown it has always been the subject of special comment. Likewise the Commission has always tried in presenting figures to accompany them with the necessary explanation so that they might be fairly interpreted. For example, the question has frequently been asked: "When the police arrest one man who has committed six offenses do you count this as one arrest or six?" The answer, of course, is six. Likewise it is always explained that many reports of crime are false or erroneous, and recently the Board of the Commission decided to omit from its general table "automobile thefts," since fully ninety per cent of the reported "thefts" were not actual thefts, as the cars were simply the subject of unauthorized



use. A separate automobile theft table is, therefore, now carried.

If press notices, bar association reports, leading magazine articles and the meagre police reports available are correct, there is a rising crime rate generally throughout the United States. Despite this general condition, serious crime in Baltimore has decreased even though there has been a material increase in population. Coupled with this decrease and no doubt partially explaining it, there has been a marked increase in the percentage of arrests and convictions in relation to reports of crime. The promptness with which criminals are now tried in Baltimore (ninety-two per cent of the cases tried were tried within three weeks of arrest) has no parallel in the United States so far as is known or any records show. On February 15 of this year only twenty-four triable cases remained open on the 1925

Criminal Docket of 4444 cases. Thus five weeks after the term of court ended, January 8, 1926, only one-half of one per cent of the cases remained untried.

The functions of the Baltimore Criminal Justice Commission, therefore, are to help promote and secure a more efficient administration of criminal justice through helpful co-operation with all the officers, agencies and tribunals charged with its administration. Evidently, then, the Commission does not thrive on a "crime wave," but is solely justified if its studies contribute to a decrease of crime. The results already accomplished in Baltimore clearly show that the Commission, through the continuous and intelligent assembly of facts and co-operation with the agencies which are actually in charge of the administration of justice, is very successfully carrying out the objects for which it was formed.

## Jury Trials in Criminal Cases

By CLARENCE N. CALLENDER

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**I**N a discussion of trial by jury in criminal cases, it is necessary to keep constantly in mind the fact that the jury is only one of the incidents in our system of criminal procedure, and that the correction of whatever defects may attach to it is only a part of the larger problem of obtaining a prompt, orderly and efficient method of bringing the guilty to final judgment. No matter what improvements we may bring into the jury system, criminal justice will still be found wanting unless we revise our criminal code, abolish or improve the minor judiciary, remodel the grand jury system, and correct the many other defects in procedure which

tend to delay and impede the progress of criminal trials. Nevertheless, the jury does play a very important part in the criminal courts. Unless it functions smoothly, the whole procedural machinery is thrown out of gear. If juries disagree when the evidence is sufficient to justify conviction, the prosecution is seriously hampered. If they refuse to convict, all other efforts are rendered abortive.

There are many phases of the jury problem which might be discussed. Some writers would raise the question of whether it would not be better to abolish jury trials altogether and resort to other alternative methods of de-

termining facts. But this presents an issue of only academic interest. It is very unlikely that the jury will be deliberately abolished. Certainly there is no movement on foot to do this at the present time, and the jury is well entrenched in constitutional provisions. If the jury system is to disappear, it doubtless will be through an evolutionary process whereby its authority will be gradually taken away and lodged in the judge, or its importance lessened by means of the substitution of other methods of trial. There is already a noticeable tendency in civil disputes to substitute commercial arbitration. Also, the practice of voluntarily waiving jury trials, in cases tried in court, is definitely on the increase. In England and Canada this process has gone a long way, and the number of jury trials has been greatly reduced in recent years by arbitration, by the waiving of jury trials, and by giving the judges in civil suits power to grant or refuse such trials at their discretion. In the United States commercial arbitration is in its infancy; the practice of waiving jury trials, while increasing, is not in general use; and nowhere do judges possess the authority to allow or refuse jury trials where the parties demand them. In the criminal courts the jury is even more firmly established. Except in the summary trials of trivial offenses before justices of the peace, a jury is almost universally used. A few states have laws permitting the accused to waive a jury trial, but the practice of putting him to an election is not commonly followed. On the contrary, we virtually force him to take a jury trial by giving him no opportunity to make a choice. A notable exception is Maryland where, by constitutional provision, a jury trial may be waived in criminal as well as in civil cases. The courts have taken advantage of this provision and, as a result, trials before judges

have become quite common, especially in cases involving the less serious offenses.

Such a scheme is worthy of very serious consideration. Why should we not discourage as much as possible a resort to the jury trial? If a considerable percentage of defendants are willing to be tried by the judge, why force them to take jury trials? It would be much better to compel each one to demand it. In many states it is now possible to allow defendants to waive jury trials; in others—statutory or constitutional changes would doubtless be required. The saving in time and money which would result would probably be enormous, and if an ultimate resort to the jury were reserved to all defendants, the danger of arbitrary action upon the part of judges would be sufficiently guarded against.

#### DEFECTS IN THE JURY TRIAL

This brings us to a consideration of the jury trial itself. What is the matter with it? Has it such inherent weakness that it cannot be made to function satisfactorily? What should be done to improve it?

The jury system is not inherently defective as an instrumentality for determining facts in litigation. On the contrary, it is, or may be made, a very satisfactory means of resolving such issues as arise in the criminal courts, where the matters for elucidation are human actions and human motives. The trouble with the jury system is that it has been allowed to degenerate. Abuses of its true functions and faults in its administration have crept in, and little or nothing has been done to remedy them. We have been content to regard it as the great "palladium of liberty" and, consequently, as beyond reproach and not susceptible of improvement. But of late it has fallen

into disrepute, and the question is being asked—what should be done about it?

### (1) *Criminal Procedure*

Among the causes for the decline in the prestige of the jury have been defects in criminal procedure over which the jury itself has had no control whatever. An example is the interpretation placed upon the constitutional guarantee that a person shall not be compelled to testify against himself in a criminal proceeding. This provision has been construed by the courts to mean that the failure of the accused to testify in his own behalf shall not be made the basis of any adverse comment by the court or by the prosecuting attorneys. More than that, the judge is required to instruct the jury that they are not permitted to draw any conclusions or infer any guilt from the fact that the defendant has not taken the stand in his own behalf. One may be permitted to doubt whether the guarantee itself, formulated in the days of oppression, is still justifiable. Its by-product is the third degree. At any rate, the construction placed upon it is absurd. Certainly, the silence of the accused should not, in itself, be sufficient to justify conviction if unaccompanied by other evidence sufficient to convict, but if so accompanied, it ought to be considered a highly relevant fact. Innocent men need no such protection. The effect of such instructions of the court on the jury tends to make them more reluctant to use against the defendant the intelligence which they brought into the jury box.

### (2) *Restrictions upon Judges*

Another reason for the deterioration of trial by jury has come about as a result of the tendency in the United States to reduce the responsibility of the judge in the conduct of the trial and to place on the jury a burden

greater than it is qualified to assume.

We have almost reduced the judge to the rôle of an umpire between contending factions, and permitted or compelled him to throw most of the responsibility onto the jury. The jury, being unfamiliar with the devious ways of criminal procedure, and being denied the effective assistance of the judge, flounders about, and all too often follows the path of least resistance—and acquits.

One of the influences which tends to reduce the usefulness of the judge results from the constitutional guarantee that a person shall not twice be placed in jeopardy of life and limb for the same offense. This provision, by strict construction, applies only to felonies, but the courts generally have been guided by the spirit rather than the letter of the law, and have applied the doctrine to all indictable offenses. This means that the state is denied the right to an appeal from an acquittal. As a consequence, the judge, unless he is possessed of a high degree of legal learning and also of moral courage, will rule against the prosecution on all doubtful points, for thereby he does not subject himself to a reversal by the appellate court. If he rules against the defendant, he is subject to review. Even the learned and conscientious judge is restrained by the thought that if the defendant succeeds in getting many exceptions on the record, an appeal is sure to result—if only for the purpose of delay. The effect of all this is fairly obvious. It means that everything favorable to the accused is placed before the jury, but frequently the telling points of the state's case are rejected, and the district attorney has no remedy. In some states the judge is not even allowed to review the facts of the case in his charge to the jury, but is confined to charging them on points of law prepared by opposing counsel.

In other states the fundamental theory of jury trials has been abandoned and the juries have been made the judges of the law as well as of the facts. That the tendency to deny to judges an effective part in the trial of cases is not dead is evidenced by the fact that there was recently an attempt made in Congress to pass a law forbidding a Federal judge to "express his opinion as to the credibility of witnesses or the weight of the evidence." Fortunately, the bill was defeated, and the more enlightened procedure of the Federal courts was preserved.

Juries were never intended to operate virtually as independent agencies. Their true function is to decide simple issues under the direction and guidance of the court. If we deny to them that assistance, the result is bound to be disastrous. They know human nature; they can detect falsehood; they can understand the motives that actuate their fellowmen, but in the unfamiliar atmosphere of the courtroom they need the guidance of a disinterested judge. His riper experience derived from daily contact with witnesses would enable him, if he were not hampered by so many restrictions, to play a very effective part in the trial. As matters now stand, the average judge plays only a secondary rôle. He asks few questions and seldom interferes with counsel except upon great provocation. When asked to rule on points of law, he does so with great caution in order that the defendant shall not obtain any colorable basis for an appeal. When he charges the jury he is compelled to instruct them that the defendant is presumed to be innocent and that they may not convict unless they are convinced beyond a "reasonable doubt." He then proceeds to define what constitutes reasonable doubt, and his definition, although approved by previous decisions of the Supreme Court, is

so technical and refined that the jury hardly knows what he is talking about. If the law permits him to comment on the evidence, he does so with great caution, and warns the jury that they are at perfect liberty to disregard his version of the facts. In short, the judge has great latitude in ruling against the prosecution, in directing verdicts of acquittal, in declaring mistrials, etc., but almost no effective authority to push the case vigorously for the state. Being so hampered, he is apt to do the obvious thing and throw the burden onto the jury. When things go wrong, the jury generally gets the blame.

There are many other phases of the jury question which might be mentioned, such as those which develop from the tendency of legislative bodies to pass laws which have no united public sentiment behind them, and which result in wholesale acquittals when attempts are made to enforce them; also the increasing tendency of public opinion to condone, because of excessive sentimentalism, many criminal offenses. We should not expect from our juries a zeal for law enforcement very much higher than exists in the community at large. And perhaps it is one of the great merits of the jury system, in an age when attempts are being made to regulate by criminal statutes so many phases of human conduct, that we should possess an agency which can exercise a palliative influence.

#### PERSONNEL AND METHOD OF SELECTION

There is another phase of the jury problem which has to do with composition of the jury itself. The character of the *personnel* of the jury is a matter of great importance. It is apparent that if it is composed of persons of high grade intelligence and good moral character, we may expect verdicts of a



much higher grade than when it is made up of a miscellaneous assortment of all types of individuals picked at random from the community without regard to any positive qualifications whatever. It is surprising how little thought has been given to this matter in most communities. In general, it has been deemed sufficient to take at random from the citizenry the required number of persons, trusting to Providence and a turn of the jury wheel that they will prove themselves endowed with the requisite intelligence to fulfill their important function satisfactorily. A brief review of the practice in the various states with respect to the method of selecting jurors is appropriate.

A judgment of one's peers, as guaranteed by constitution and statute, at the present day means nothing more than a trial by jury in the courts according to the accustomed course of judicial procedure, and by a jury which has been selected in accordance with the provisions of the statutes of the state in which the trial is held, after due challenges have been allowed in accordance with the law. Whatever jury results from the statutory method of selection is all that an accused is entitled to demand. If the system of selecting yields persons of high calibre, trial by jury is one thing; if it yields nothing but the dregs of the community, it is a very different thing. Without proper consideration being given to this subject, trial by jury can never be made to work satisfactorily.

There is a wide diversity as to the method of selecting jurors in the different states of the country, and sometimes there is a considerable difference between the methods in the several judicial districts of the same state. It is not possible to discuss here the details of the various methods, but a few characteristics of the prevailing systems may be pointed out. Perhaps

the most common scheme is that of selection by elected jury commissioners. Other methods are selections by commissioners or clerks appointed by the courts, or by the judges of the courts themselves, or by one designated judge, or by a judge acting with elected or appointed jury commissioners, or by county commissioners, or other public officials. Of the various agencies, the best are those in which the courts exercise a complete supervision. The responsibility for obtaining good jurors ought to be placed squarely on the judges, who either ought to select the names personally or appoint those who do so. There is no good reason for delegating the function to elected officials and making what is essentially a judicial matter the plaything of politics. Furthermore, it is highly desirable that the duty of selection should be placed in the hands of one, or at most three persons, in order that responsibility for results may be definitely fixed. A disregard for these rather obvious considerations has contributed much to our failure to fill the jury boxes with satisfactory jurors.

The second phase of jury selection is concerned with the sources from which the names of jurors are derived. Very commonly, the statutes provide that they shall be taken from the lists of persons assessed for tax purposes or from the lists of registered voters. There are no objections to such sources of information as far as they go, but the difficulty is that frequently they are made the *only* sources which may be consulted. This often results in permitting many eligible persons (and frequently very desirable persons) to evade jury duty by the simple expedient of keeping their names off the designated lists. Obviously, all sources of information concerning eligible jurors should be open to the selecting officials.

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tant of all, there is, under most schemes of selection, no method provided whereby the selecting officers may obtain information as respects the character of the persons whom they are proposing to select for the jury lists. This is the crux of the whole matter. In small communities, where it is possible to know most of the inhabitants, the matter is not of so much consequence, but in cities where there are thousands or hundreds of thousands of names to select from, it is apparent that some method must be devised whereby the selecting officer can determine the character of eligible persons before he selects them. The name, residence and occupation contained on voting lists is grossly insufficient. It is also necessary to know whether a proposed juror is able to understand the English language, whether he is physically or mentally incapacitated, whether he is a man of good reputation, and whether he possesses sufficient intelligence to understand the ordinary issues which he will have to decide. In most jurisdictions no attempt is made to secure this type of information, with the result that selections are made almost entirely at random. The elimination of the unfit is left to the excusing process and the system of challenges, neither of which methods are at all suitable to the object of procuring a body of persons with the positive qualifications which are essential.

#### SOLUTION

The usual explanation of why we have poor juries is said to be because the judges excuse the better type and retain those who are interested in receiving the jury fee. No doubt this is an evil, but it is by no means an adequate explanation of why we have so many incompetent juries. The solution is to have no persons placed on the jury lists who are not competent

to serve. If this is done, the granting of excuses (and some must be granted) will have no material effect on the character of the body which remains. Much ingenuity has been exercised in devising methods of safeguarding the procedure of filling and making drawings from the jury wheels, with the result that such matters are generally handled in a most careful manner. While it is important that this stage of jury selection should be honestly performed, it is otherwise not a matter of much importance. If the names of worthless persons are placed in the wheel, it, of course, results that they are drawn from the wheel. The solution is to put only the names of desirable jurors *in*, so that none but desirable ones will come *out*.

Progress along the lines indicated has been made in some jurisdictions. New York State has an intelligently devised Jury commissioner system, which, if properly administered, should yield a very high type of juror. Baltimore has a system of selection by a jury judge which is said to give good results. The new system recently established in Pittsburgh promises to prove quite satisfactory. The United States District Courts, due to careful methods of selection, generally have high grade juries.

There is much study necessary if the jury system is to be made to work satisfactorily. If we can overcome the bias which generally exists in favor of institutions as they are, and the inertia which impedes the introduction of new methods, trial by jury can be made to work, and work well.

In conclusion, the words of Dean John H. Wigmore<sup>1</sup> are appropriate:

Of course, jury trial, *as is*, works badly. Of course, jury trial, as now managed, is inefficient. Of course, it exudes an aroma

<sup>1</sup> *Journal American Judicature Society*, December, 1925.

of repellant to the citizen, of shame to the legal profession, and of doubt to the chambered student of political science. . . . But is that a good and sufficient reason for abolishing trial by jury? No more than

our mishandling of a once perfectly good watch is a reason for discarding the watch—or watches in general—if it or they can be mended. The true thing to be done about trial by jury is to MEND IT!

*like in 2-1.*

## Simplifying Criminal Procedure in the Lower Courts

By R. P. SHICK, ESQ.

Of the Philadelphia Bar

THE problem of law enforcement is essentially one of fundamentals, of proper viewpoints, and of adaptation of means to ends, to provide adequate legal machinery for solving the problems of modern crime.

Simplifying criminal procedure in the lower courts is a question of method in marshalling the forces of the judicial arm of government, to cope successfully with the forces of crime.

In creating a Constitutional Commission in 1920, the Pennsylvania Legislature gave it the mandate to study the present Constitution "in the light of modern thought" and to suggest revision, amendment or repeal of its provisions, as such modern thought might dictate. In this we may see the proper approach to the problem of criminal procedure for our day and generation. For the strategy of this war on crime, certain principles, in the light of history and its "teaching of philosophy by example," may well be postulated here.

*First.* Law and its processes are not static but are ever in a process of movement, or ceaseless transformation.

As Sir Henry Maine, in his classical work on *Ancient Law* put it, in words that emphasize the dignity of the problem, for us Americans as joint-heirs of the Anglo-Saxon body of jurisprudence:

With respect to them (progressive societies) it may be laid down that social neces-

sities and social opinions are always more or less in advance of law. We may come indefinitely near to the closing of the gap between them, but it has a perpetual tendency to reopen. Law is stable; the societies we are speaking of are progressive. The greater or less happiness of a people depends on the degree of promptitude with which the gulf is narrowed.

And in this connection he pointed to the great destiny of the peoples of Western Europe in the following words:

In spite of overwhelming evidence it is most difficult for a citizen of Western Europe to bring thoroughly home to himself the truth that the civilization which surrounds him is a rare exception in the history of the world. The tone of thought common among us, all our hopes, fears and speculations would be materially affected, if we had vividly before us the relation of the progressive races to the totality of human life. It is indisputable that much the greatest part of mankind has never shown a particle of desire that its civil institutions should be improved since the moment when external completeness was first given to them by their embodiment in some permanent record. Except in a small section of the world, there has been nothing like the gradual amelioration of a legal system.

*Second.* Efficiency in the administration of criminal justice may properly be demanded of our judicial systems.

Courts, in a comprehensive sense, are but business institutions, managed

by human agents, for human purposes. The words of Mr. Justice Riddell, speaking of the Ontario judicial system, are in point:

We . . . regard the courts . . . as business institutions to give the people seeking their aid, the rights which the facts entitle them to and that with a minimum of time and money. We are a poor and busy people. We cannot afford to waste either time or money.<sup>1</sup>

Efficiency is the demand of the day—in all spheres of human activity—and nowhere is it more needed than in the administration of the criminal law, to work out the ends of justice in the protection of human society as well as the individual member thereof.

*Third.* Swiftmess and certainty in the punishment of crime are the best deterrents of crime, but, as Elihu Root has said, "The highest purpose is impotent until it forges an instrument to give it permanent effect."

On every side do we hear complaints of the inadequacy of our criminal procedure to accomplish the great purposes of our criminal law—from our eminent civic leaders, Chief Justice Taft, the late ex-President Wilson, Dean Roscoe Pound, Chief Magistrate McAdoo and a host of other American legal experts. From Wales comes the comment of a ripe student of comparative law and of the evolution of law:

Many have wondered why, among such a progressive and energetic people (the United States), an antiquated criminal and an even more cumbersome equity procedure should have persisted unaltered, for now nearly half a century after they have been swept away in the old country from which they were exported and that in spite of the persistent activity in numerous directions of a multitude of legislative bodies.

*Fourth.* At the foundation of our political structure is the division of

the powers of government into three branches, legislative, executive and judicial. Each is granted well defined powers. The independence and integrity of each is essentially to be preserved for the proper functioning of government in promoting the common weal and happiness of our people.

#### OUR PROBLEM

Whether the estimate of the cost to us of crime be taken at three or at ten billions of dollars, as it has been variously estimated by the economists and specialists connected with the surveys of crime in Chicago, Cleveland and Detroit, the figure is a staggering one and challenges our serious thought to our present criminal procedure. For criminals, it is to be remembered, represent, as a totality, less than two per cent of the population of the United States.

Its vice has been pointed out by Mr. Charles E. Hughes in his Detroit address to the American Bar Association (in 1925):

There is a manifest failure to secure through an adequate administration of our criminal law an appropriate punishment of crime, the deterrent effects of which are in large part the object of these laws. The chief cause is probably a laxity of public sentiment—a general flabbiness with multi-form disclosures—the most difficult thing to correct. There is no single remedy that will suffice and a co-operation of remedial efforts is needed.

Likewise, Judge Kavanagh of Chicago has pointed to a great evil in our present procedure, the fine spun technicalities which are the shield and buckler of the average criminal—with their genesis in decisions of courts and not in statutes. These, he urges, may be wiped out by the judges, *nisi prius* and appellate, by substituting common sense and those necessary principles which

<sup>1</sup> *Am. Bar Ass'n Journal*, Oct. 1919, pp. 642, 654-8.



are so essential to the due administration of justice.

The problem as a whole and a remedy have been graphically put:

Crime is no longer a local proposition, it is a state-wide problem, to be handled by the state itself under modern executive and judicial methods. Our system of officers, our criminal pleadings, our court proceedings are all antiquated, rusty, disjointed and ineffective. We should strip sheriffs and constables of all but civil functions, abolish the coroner, county jails, and the grand jury, establish a state police with complete state-wide power, and under their direction employ experts in all criminal lines, put in a state bureau of criminal identification at the state penitentiary and criminal records that mean something throughout the state, give the district attorney all the powers of the grand jury, make the attorney general the head of the state law enforcement machinery, revise court procedure, put the state on an equality with the defendant, and make the court amount to something, so that we may have real judges, instead of umpires, sitting upon the bench.

This is a rather large dose for one taking, but the subject must be treated as a whole, and only by the most radical methods can we escape the truism uttered by Chief Justice Taft, "The administration of criminal law in America is a disgrace to civilization." The situation demands leadership, and the lawyer must lead.<sup>2</sup>

Resolving our criminal procedure into its elements, we have three main branches—apprehension, prosecution and trial. We have also our fundamental constitutional division of the powers of government.

Nowhere, however, in the United States has the independence of the judiciary system as a law enforcing agency been consistently developed in accord with this constitutional mandate or the plain requirements of ordinary efficiency in the problem of ad-

<sup>2</sup> Phillip S. VanCise, Colo. Bar Ass'n Rep. 1925, p. 156.

ministration of criminal justice. There is no team work anywhere among any of the agencies of the states for law enforcement—constables, magistrates or justices of peace, sheriffs, police, district attorneys, attorney generals and courts. No criminal statistics of any real value are kept—the control figures—to determine efficiency of any agency. The whole machine for the enforcement of the law—to the end of its chief function, the protection of society, the ninety-eight per cent against the crimes of the two per cent of our population—is unco-ordinated and uncontrolled in its various parts.

#### CANADIAN CRIMINAL PRACTICE

Canada has pointed the way to the practical remedy. In her Criminal Code of 1892, codifying the criminal law and procedure in criminal matters, she has provided herself with an independent judiciary system, fully co-ordinated in all the stages of criminal procedure, and supervised and controlled by the Supreme Court. Swift and certain justice is obtained without delay at any stage.

Her police force is well organized, imbued with a fine *esprit de corps* and swift and relentless in the pursuit of those accused of crime. The Northwest Royal Mounted Police was long famous for its wonderful work and this corps' example has been the inspiration to the work of the present Royal Mounted Police of Canada. When apprehended the accused is promptly given a formal hearing, before appointive justices of peace or police magistrates in cities, at which the evidence is taken in full and carefully preserved for further proceedings in the case. Within twenty-four hours of committal to gaol, notice must be given by the sheriff to the county court judge, and the accused promptly brought before him to be confronted

with the charge and given the privilege of a trial forthwith before him without a jury or being tried with a jury. If the former course is chosen a simple charge is drawn up in most informal words and the case promptly disposed of by the judge. If a jury trial is demanded, an indictment is presented by instruction of the Court, to the Grand Jury and a jury trial had promptly thereafter in the Criminal Court. Little or no time is wasted in the drawing of juries, speedy trials are had by the co-operation of the Bench and Bar and criminal cases are finally disposed of, even on appeal, within a few months. Informality is the rule in regard to the records on appeals, and only error; occasioning substantial wrong or miscarriage, is considered.

This development by our Canadian brethren started with the same inheritances from England that the Colonies of the United States had. The development, however, particularly since the great reforms of procedure and consolidation of courts in England in 1873, has been most remarkable, directed and moulded as it has been by a peculiarly happy spirit of justice, as between the rights of society and those of the accused, on the part of the judges, and by a remarkable legal sense shown in the work of the Bench and Bar, in adapting the machinery for the enforcement of law, in all its parts, to the ends of economy and efficiency.

Mr. Justice Riddell, of Ontario, Canada, has given us a faithful picture of the Canadian criminal practice in several addresses in the United States.<sup>3</sup>

#### MICHIGAN CRIMINAL PROCEDURE

In the United States, in Michigan alone, and in particular in Detroit, have they attained somewhat near unto the same results, in the Recorder's Court of

Detroit, consolidating the magistrates or justices of the peace with the criminal courts and placing the control of the whole process—the apprehension, prosecution and trial of criminal cases—in that court.

The prosecuting attorney's office controls the issue of warrants. Through its staff of probation and investigating officers it sifts out the frivolous from the serious cases of crime. Frivolous or petty charges of crime rarely get into the court, to clog its trial calendars, because they are prevented by the conciliation work of the investigating officials of the prosecuting attorney's office. Prosecutions for crime are had upon informations filed by the prosecuting attorney of the county. Grand juries are not "drawn, summoned or required to attend the sittings in court" within the state of Michigan, "unless the judge thereof shall so direct in writing, under his hand and filed with the clerk of said Court."

When apprehended and brought before a member of this Court, as the committing magistrate but also having the capacity of a trial judge, the accused may at once plead guilty and throw himself upon the mercy of the Court.

Experience has shown that this practice in that Court enables it to dispose of much of the criminal work in the city of Detroit without any further proceedings. Dispensing with the function of a grand jury saves much time and expense. Trials by the judges without juries seem to be much favored by the criminal classes themselves. The administrative and executive functions in the administration of justice are well taken care of and the statistical records for the first few years of it are, perhaps, the best evidence of its efficiency. A decrease in the number of major crimes of more than fifty per cent within two years is an achieve-

<sup>3</sup> See *Am. Bar Ass'n Journal*, Oct. 1919, pp. 654-8.

ment of which the city of Detroit may justly be proud, and is eloquent testimony of the success of such a reorganization of the machinery for the enforcement of the criminal law as a whole and not in a fragmentary or disjointed manner, as has been usually the case in the United States.

#### IMPROVEMENTS IN NEW YORK

In New York City since 1915 the evil conditions of the old magistrates' courts and the bad housing conditions for such courts have been largely cured by legislation, consolidating the magistrates of New York City into one board under the supervision and control of a chief magistrate. Due regard has been had for the psychological value of a proper setting for such courts, in giving the magistrates dignified and sanitary courtrooms or buildings. In this way the value of these magistrates' courts as an Americanizing influence over the foreign elements—of many races and nationalities—in New York City's population, is fairly well secured. Appointed from the Bar of New York City by the mayor of that city for ten-year terms, these magistrates are fairly immune from political influence and devoted to the real work of the minor judiciary.

With a chief magistrate to guide and direct the general work of the Board of Magistrates, the elements of elasticity and adaptability are present, to enable these magistrates' courts to cope with the ever increasing and changing problems of minor crimes in a great metropolitan city, arising under the highway law and ordinances and statutes relating to vehicular traffic in the public streets: infractions of food laws; of tenement house laws or regulations; of public park regulations; of fire regulations; of state labor laws, etc. By co-operation of the various departments of the city government, including the

Corporation counsel's and district attorney's offices, with the chief magistrate, special courts have been created such as a traffic court, municipal term courts, night courts for women, domestic relations courts, probation courts, etc.

In 1919 in the traffic court alone Magistrate House handled 26,213 cases and collected \$262,495 in fines and penalties. With the free use of the summons instead of the warrant, thousands of persons are saved from imprisonment for minor offences. The public has shown its appreciation of this feature and rarely disregards the summons issued by the police for specified offences. In short, the public law, ordinances and regulations are rigidly enforced, at the minimum of inconvenience to the public, by this centralization of the business of the magistrates' courts, both as to personnel and material, and the grant of large administrative powers to the chief magistrate—"control of the establishment, short of interference with the judicial powers and responsibilities of the magistrates."<sup>4</sup>

#### STATE RANGERS AND CONSTABULARY

The State Rangers of Texas, Colorado and other Western states, and the State Constabulary of Pennsylvania, New York and New Jersey, are demonstrations of the power and efficiency of such agencies in the work of deterring crime and its swift apprehension when committed, over the large areas of states. The loyal, efficient, and often heroic work of the Pennsylvania State Constabulary, in its every day work of preventing crime or bringing to book its perpetrators throughout the state of Pennsylvania, has been faithfully portrayed by Katharine Mayo in her stories of its work.

<sup>4</sup> See N. Y. State Bar Ass'n. Report of meeting of Jan. 17, 1920.

The methods of work of the state constabulary forces, of the New York City police and of the United States Army in matters of military crimes, point the way to the cure of many of the evils of our present methods in the administrative stages of penal justice—arrest, bail, prosecution and the rest.

As pointed out by Dean John H. Wigmore, the "fundamental shortcoming of civilian criminal justice" is the lack of any "provision in our system for administration. We have forgotten that the efficiency of any penal system is largely dependent on the current administration of that law" and our present "vast aggregation of administrative officials," are "without any inspection, supervision or central control—or even knowledge of what the others are doing."

The military system can say this for itself: It *knows what it wants*; and it systematically *goes in and gets it*. Civilian criminal justice does not even know what it wants; much less does it resolutely go in and get anything."<sup>4</sup>

#### THE GRAND JURY

The grand jury has been abolished as a part of criminal procedure in twenty-seven and more states of the United States, and its function put into the hands of the prosecuting attorneys. Michigan for fifty years and more has fared well without such a cog in her judicial machinery and her experience demonstrates the non-necessity of a grand jury in the prosecution of crime.

#### IN MARYLAND AND CONNECTICUT

The practice of Maryland and Connecticut, in giving the accused, when arraigned for pleading, the choice of trial "by the court or by a jury" is efficient, economical to the state and

satisfactory to all concerned in the trial of crime. It has prevailed in Maryland from the beginning of her judicial history and since 1850 covers all charges of crime, major or minor.

In Connecticut an act of the legislature of June 2, 1921, provides *inter alia*:—

In all criminal causes, prosecutions and proceedings the party accused may, if he shall so elect when called upon to plead, be tried by the court instead of by the jury; and in such cases the court shall have jurisdiction to hear and try such case and render judgment and sentence thereon.

In 1924 in Baltimore City over ninety per cent of all the cases tried in the criminal court were tried by judges without juries. In only 180 out of 4499 criminal trials was a jury trial asked for. Of the 1500 criminal cases docketed during the four months of the January, 1925, Term of that court, all except 177, mostly those last docketed, were disposed of before the final day of the term. There is no problem of delay in the administration of the criminal law in Baltimore.

In Connecticut the report of the clerk of the city of Hartford is that "since this law (of 1921) went into effect some four years ago, there have been roughly about seventy per cent of the cases tried by the court and about thirty per cent by the jury."<sup>5</sup>

#### CATCHING UP WITH CRIME

Crime has changed its methods, and makes use of the facilities given us by modern industry, revolutionized as it has been by the application of the scientific method to the natural sciences. We have seen the power-creating forces that serve humanity in times of peace turned to the uses of a war which threatened the very civilization that

<sup>4</sup> *Jour. Am. Jud. Soc'y*, Feb. 1921, V. 4, No. 5, p. 151.

<sup>5</sup> See Judge Bond's report on this Maryland Practice in *Am. Bar Ass'n Journal*, Nov. 1925, p. 699.



has made possible our material progress and prosperity.

If the great aim of criminal law and its enforcement has been the protection of society and the public welfare of our communities, the administration of criminal justice should likewise apply the scientific method to the problems of modern crime, its prevention, and detection.

In the graphic, breezy words of a Western expert in criminal cases:

We must 'step-up' our units of power before we can successfully deal with the modern criminal. The situation with which we are confronted, demonstrates beyond cavil that the criminal world has got the road, so far as its traffic is concerned and is generally miles ahead of the law enforcement machine, this advantage being afforded by the modern automobile, electricity, high explosives, automatic guns, pistols, the radio, acetylene torch, the electric furnace, and all the other inventions of modern science and utility which the criminal world has had thoroughly organized for its benefit, while the forces of government await the education of the laggard public mind and opinion.<sup>7</sup>

#### THE REMEDY

The remedy and its method of application lie at hand.

As ex-United States Senator Charles S. Thomas stated it before the Colorado State Bar Association on Sept. 19, 1925:

The courts of the country, backed by the bar associations and the members of the Bar outside of them, can themselves institute a method of procedure which carried to its logical outcome will very largely release society from the menace of crimes constantly increasing both in magnitude and number. Now what is government after all, except an artificial creation, absolutely essential to community life, created for the protection of property, for the

security of the individual to the end that he may pursue that happiness which in the Declaration of Independence is included as one of the natural rights of man. And that part of the government fails us when through its technicalities and its technical methods of procedure it gives to the criminal, even the murderer, protection instead of punishment.

The scientific method must be applied to the problems of the protection of society, with the emphasis upon the rights of the ninety-eight per cent law-abiding elements of our population, as against undue solicitude for the rights of the two per cent of criminals.

The police forces of our states and municipalities should be properly coordinated and vigorously supervised and perfectly organized, without regard to county lines, and fully equipped for the work of detecting and apprehending those who commit crime. All the administrative stages of criminal procedure, i.e. bail, witnesses, evidence at preliminary hearings, etc., should be rigidly controlled and supervised by the criminal courts or from the prosecuting attorney's office. His office should be made responsible for results in the prosecution of crime, without division of his powers with any grand jury. His office could compose the "neighborhood quarrels," through proper officials, and sift out the petty and frivolous from the proper and justifiable in prosecutions, to the relief of our criminal courts and their clogged trial calendars.

All accused of crime should have the choice of trial by a court or by a jury.

Magistrates and justices of the peace should be made distinctly officers of the judicial arm of government and subject to the control and rigid supervision of the courts, or of an executive and administrative head.

Centralized supervision of all criminal courts within the state would give

<sup>7</sup> Hon. H. C. Riddle, Colo. Bar Ass'n Rep. 1925, p. 40.

the whole system of administration of criminal justice a common policy in the treatment of a problem demanding consistent and known policies for the whole state. The supreme courts interpret the uniform static rule of law as established by the legislatures, but provisions should be made for a control of the current administration of that law.

With forty-eight states and the Federal Government all working to the same end,—all legal experiment stations or laboratories—examples and the proofs of efficiency of the various units in the judicial machines are at hand. It remains with the various states or local communities to apply the scientific method to the elements of their special problems and in an eclectic way to adopt from the work of other jurisdictions that which is needful to the erection of new or rearrangement of their own old machines, for law enforcement.

#### UP TO THE BAR

The Bench and Bar of our country must lead the way. Theirs is chiefly the duty to think on these matters in

terms of society and do their full parts, to bring about the simplification of criminal procedure and the wiping out of technicalities that unduly protect the criminals, as against the right of society to the free and untrammelled enjoyment of life, liberty, property and the pursuit of happiness.

Our English cousins worked out their great reforms of procedure in 1852 and 1873, largely under the influence and inspiration of the work of David Dudley Field in New York in 1848, as Professor Lambert of Lyons, France, has stated in his scholarly sketch of the future destiny of the common law of America, and we may well pattern our criminal procedure after the tried and proven one of Canada under her Code of 1892—the adaptation of England's practice and procedure to American conditions. Above all, the work calls for the use of that legal sense, so characteristic of the Roman and his *practor peregrinus* and of the stalwarts of our Bench and Bar in the earlier decades of the 19th century, in softening or wiping out, in a spirit of equity, the rigors and harshnesses of the common law and its processes.

## The Prevention and Punishment of Modern Crime<sup>1</sup>

By HON. EDWIN O. LEWIS

Judge of Common Pleas Court No. 2, Philadelphia County

I AM one privileged to take a great deal from this conference and to contribute very little, though perhaps as a judge, one who is called upon from day to day to send his fellow citizens to jail, to the workhouse, to the penitentiary, to the reform school, and who

later is called upon to pass upon their parole, the subject of this scientific discussion is closer to me, is more vital to me, than to you.

I have attended all of the day's sessions, and have gained a great deal of profit from the consideration of a most important topic, that consideration being given in a truly scientific spirit. There has been no abuse, and few generalities, but a large body of

<sup>1</sup>Address delivered at the Conference on Modern Crime: Its Prevention and Detection, of the American Academy of Political and Social Science, February 20, 1926.

soundly considered and forcibly presented facts. And scientific investigation, we are told, is a matter of the collection of facts and the drawing of inferences therefrom.

After listening to Mr. Abbott<sup>2</sup> in his quite justified account of the number of laws that are ignored and violated, you can appreciate the embarrassment of a judge sitting in the criminal court when he is called upon to pass sentence upon the unfortunate among us who is so unlucky as to be detected by Major Adams, and so cursed with ill fortune as to be convicted by the reluctant juries, so termed. I will confess to a great deal of embarrassment on many occasions when sentencing those standing before me, but I will not admit that any action that I have taken has been unscientific—though perhaps unconsciously scientific—for I know of no criminal ever sentenced by me without an endeavor to give consideration to environment, to the misfortunes of birth, to temptations, and to the horrible consequences of confinement in one of these antiquated institutions that we maintain in Pennsylvania under the names jails and penitentiaries. For I have never been able to forget that the citizens of this state compel the judges to sometimes send young boys and young men and young women who are first offenders to a place where they can only be made worse, and cannot possibly come out better. And yet, to satisfy the demand for the pound of flesh by way of punishment, we have to send these first offenders there, although we know that they will come out worse, and are morally convinced that many of them will never commit another crime. But public sentiment exacts punishment, and perhaps it is right, although I am unconvinced after listening to all of to-day's addresses—I

am convinced that punishment is not necessary in all cases.

I shall endeavor to be sufficiently scientific to bear in mind that one cannot safely generalize from experience confined to Philadelphia. Also, many of you are from out of Philadelphia, and not particularly interested in what goes on here, but we can only give the facts with which we are acquainted, and permit you to make the deduction.

I have read a great deal of abuse of judges and of courts. I think a large part of that criticism of the courts and of the judges has been entirely uncalled for, and based upon the lack of the very information which you have taken the interest to come here to-day to obtain. I will read to you a very few figures; it will only take a minute or two to establish one fact which, I assert, shows that at the present time the criticism of the courts, at least in Philadelphia, is unjustified, in so far as the more serious offences are involved.

You are under the impression that a majority of those accused of crime escape punishment; that they are not convicted. In that you are wrong, excepting in regard to violations of the prohibition law, and that is a law unto itself.

#### WORK IN PHILADELPHIA COURTS

I have compiled, in order to bring the totals to your attention tonight, the results of the cases tried in the criminal courts in Philadelphia in September, October, November and December of 1925. In what we call the prison court, where those persons are tried who have not been able to get bail, or who are not admitted to bail, there were tried 1628 cases in four months. This was in one court room, and it is a tremendous volume of work for one judge to have performed. There were 482 pleas of guilty entered. Out of 1628, over one-fourth pleaded

<sup>2</sup> See p. 35.

guilty. They were, of course, sentenced or released on parole. There were 691 verdicts of guilty; there were only 427 verdicts of not guilty out of 1628 cases; approximately one-fourth. Twenty-eight cases were abandoned. Has the community any reason to be dissatisfied with convictions in 75 per cent of the cases? I think not. I dare say there was not sufficient evidence to justify conviction, regardless of the personnel of the juries, in 95 out of 100 of the cases resulting in acquittal.

In the same four months, there were 40 homicide cases brought to trial; 21 of the 40 pleaded guilty. The defendants knew they would be proved to be guilty, and their counsel recognized a fight would be hopeless, so they confessed guilt. There were 7 convicted by juries, making a total of 28 convictions out of 40 tried; and 12 were returned not guilty or the cases were abandoned by the District Attorney. Have you any reason to be dissatisfied with this result? I think not. You need only to sit in a criminal court one day, either as a juror or as a judge, to know that a conviction in every case would be injustice, not justice.

In the same four months, in the four courtrooms where persons are tried who are out on bail, there were 4054 cases listed, an average of 1000 to each room. Seven hundred and seventy-eight were liquor cases; 362 were cases of simple assault and battery, half of which were not worth in importance the time of the court, and never should have been instituted; 190 were cases of larceny. Out of these 4054 cases there were 1893 actually disposed of. In liquor cases 241 pleas of guilty were entered, 95 verdicts of guilty were returned, and 405 were returned not guilty. In the assault and battery class, there were 5 who pleaded guilty, 46 were returned guilty and 206 found not guilty. Most of this class were

neighborhood quarrels, fights between wives of neighbors, or between fathers over children, cases that ought never to pass a magistrate's court.

The larceny group resulted in 38 pleas of guilty. Thirty-five were found guilty, 86 were returned not guilty, and 31 cases were withdrawn by the District Attorney.

In Philadelphia during the year 1925 there were 137,000 persons arrested. Think of that for a moment—137,000 of your fellow citizens were arrested in twelve months, an average of one to each thirteen or fourteen of the population. Fifty-odd thousand of these arrests were for intoxication, it is true, but think of the other eighty-odd thousand arrested for other offenses, and then you have some idea of the number of persons who are violating the law, and of the content of our prisons if they were all convicted, as some of you seem to want them to be. What would we do for prisons if all were convicted? We judges have to parole some of them to keep down your taxes.

I purpose telling you that the judges in Philadelphia are scientific. I know each of the fifteen in the Common Pleas courts well; I know each of the ten in the Municipal Court well. There is no group of twenty-five men in Philadelphia who apply more thought to their duties than the twenty-five men who sit in our criminal courts.

I shall probably find on my doorstep, in my living room, or in my hall tomorrow, men, women and girls calling at my home to plead for the parole of son, brother, fiance, father, or other member of the family. And I have to consider, and my colleagues have to consider, the circumstances of each particular case involved in order to justly reply to these often pathetic supplications.



## INSURANCE AS A CRIME FACTOR

Has Dr. Hoffman gone? He spoke this morning<sup>3</sup> most ably as representing the Prudential Insurance Company. I should like to have him hear me say that the insurance system is responsible for a great deal of crime. The indiscriminate insurance or indemnification of anyone—the insurance of any automobile owner, regardless of his record for thefts (only recently have the companies begun to discriminate); the insurance, without adequate investigation, of the employes of banks and other institutions; the insurance against fire of countless merchants whose records do not entitle them to insurance; the insurance of jewels for large sums; the insurance of drivers of vehicles against liability for the consequences of negligent operation—all this indemnity is too easily obtained and retained. A premium is put upon indifference which soon evolves into recklessness and crime. But the insurance companies seem to prefer to have the premiums grow; they prefer to take the risk of loss, because they know the community pays for it eventually, rather than to exert the proper amount of scrutiny and discrimination before the policies are issued.

That is a hard statement, but I believe it. I think our insurance companies—without intention—needlessly encourage crime. There is not a month or week in which we do not send to jail numbers of boys and young men for stealing automobiles. Only recently I had cases before me wherein the police told me that the boys involved had been solicited to steal automobiles by the owners. We know of the graveyards that exist in Philadelphia for the destruction of automobiles, that the owners may get the insurance

<sup>3</sup> See page 20.

money; and it is all done by arrangement with the owners. The police are trying hard to get them, but the evidence is difficult to obtain.

## TEMPTING OUR YOUNG PEOPLE

I want to take you into a hotel just a few blocks from here. Recently, I had before me for trial, and after conviction for sentence, three young boys. They lived in the neighborhood of 20th and Vine Streets. One woman in this hotel left a \$15,000 diamond necklace lying on her bureau, and the door to her apartment unlocked, when she knew the bellboys of that hotel were in the habit of going in and out of the apartment on proper errands. They might go in to leave a box of flowers while she was at dinner, and I believe the lady was at dinner when the necklace was stolen. Was it fair to put that temptation before a young bellboy? In that same building thousands of dollar's worth of jewelry was stolen from other tenants, who left it in unlocked bureau drawers, with these young boys going in and out of apartments delivering parcels at all hours of the day. A fence got those boys to steal that jewelry; he got possession of the loot for a comparatively small sum of money, but we couldn't get the evidence to convict him. Those three boys are in jail tonight because I sent them there. And their mothers or their fathers, their sisters or brothers, or their neighbors have been after me ever since to let them out. Of course, it is wrong to steal, no matter what the temptation; but why should such great temptation be thrown in the way of boys by careless women of wealth?

The deduction I intended to make from this incident is that temptation very greatly affects the young people of to-day. Wealth is ostentatious; expenditures by people who have made a great deal of money quickly are most

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lavish, careless and reckless. These young people see vast amounts of money thrown away by people who do not know how to use it. They see valuable automobiles standing on the street unguarded, unlocked, and they know they are insured; they are told by some boy who is with them in the pool-room or in the neighborhood lounging place that they can sell the car to a graveyard downtown. They yield to the temptation to get a large sum of money quickly, in order to emulate the lavish spenders whose example is ever before them.

The boys of to-day yield to the suggestion that you and I yielded to when we were boys, though what we did was not quite so bad or vicious. They steal a car. First they steal one for a joyride, and finding success easy, steal another to sell, and then they are thieves. And you want me to send them to jail for five years perhaps for yielding to that temptation. There are no two human beings alike; there are no two crimes alike. Every crime must be studied not only with regard to its effect upon the community, but with regard to the person who committed that crime. Only by considering the temptation, the fault of the community, the tendencies of the times, every factor such as these, can you really do justice to the young people. It is easy to send these boys away for five years, but when they come out they will be confirmed thieves. Of course, we must be cold and severe in dealing with crimes of violence, but offenses of lesser grade call for gentler and more scientific consideration.

#### SOME JUST CRITICISMS

I could keep you here all night telling you of matters that actually come before a judge. But I principally want to stress my thought that criticism of the courts has been too general.

Whatever failure there has been in the administration of criminal justice in the United States is in my judgment due to the following things:

First, technical rules of law and procedure. This defect was referred to this morning at some length, and I need only mention it now.

Second, too much control by lawyers of these rules and of the courts. The community has left the administration of the law too much to the lawyers. In former days nearly all lawyers were engaged in criminal practice; it was the avenue to political opportunity, to political fame, to high public office, even to the presidency. Several of our presidents had been engaged in the practice of criminal law. These men, serving in the state legislatures, in Congress, and in the Senate and even in the White House, were all interested in the criminal courts. They naturally favored legislation that tended to help their clients, the defendants. The conduct of trials in our criminal courts became a matter of combat, a sort of sport. The American public has always delighted in the sport of watching criminal trials, and they take sides, they make the defendant a hero, and the defendant's lawyer a hero, and forget that after all it is a solemn proceeding, involving the supremacy of law. The public criticises the judge, and yet they are the audience who go into court and laugh and snicker at the most serious things.

Next, I mention poor jury material. You would be amazed at what is left after all of you get us to excuse you from jury service—and most of you do. You even come to us now to have your chauffeurs excused, because you do not want to be inconvenienced in being without the use of your car. And what is left? Of course not the best, but those that are left do pretty well, and it is not fair to criticize them as

severely as you have done, or as severely as the newspapers have done.

My fourth heading is delay in bringing the criminal to trial after arrest, and additional delay after arrest and trial and before actual sentence. This defect I cannot stress too much; many people have talked of it, and I as a judge absolutely agree with all the criticism made of us for this inexcusable tardiness of justice. Every person charged with a crime should have his case returned to the grand jury by the magistrate within forty-eight hours. He should be indicted within another day or two; be brought to trial within a week after he is indicted; tried while the crime is fresh, and then, the moment he is convicted he should be sent to prison or fined or otherwise punished. Even while an appeal is pending, unless it is a clear case, or reasonably clear, that some error has been committed or that some injustice might be done, the defendant should be incarcerated. Some of us follow this practice. When a man is convicted before me and I am morally sure he is guilty (and we can tell), I send him to jail, notwithstanding he has moved for a new trial, for I know after he has been there a week or two he will not worry so much about the new trial. We believe, some of us, that punishment swift and sure and light is far more effective than punishment long delayed and unduly severe, and I am following that practice, and I apologize to no one.

The next reason, or cause for this partial failure of our criminal administration, is the most serious one, though constant improvement is noticeable. This is interference by, or the interrelation of, politics with the police and the judicial administration. It is hard for a political leader to change the policies that have been followed by the organization or party machinery from time immemorial. When through

death or contest he succeeds in gaining control of a district, he follows precedent and steps in to interfere with the police, in a desire to protect his adherents who have become enmeshed in the law. Pretty soon he is engaged most of his time in helping the law-breaker rather than shaping his policies to please the law-abiding citizens. The time is coming, however, when the political leader of brains will recognize that he can gain more votes by catering to the law-abiding people who do not care who fills the jobs, who care not who gets the public contracts, so long as the work is honestly done, who do not care who has the power of domination or leadership in the machine, but want reasonably good government.

I say the wise political leader of tomorrow will be the man who recognizes that by catering to law-observing people he can gain ten times as many votes, with less effort, than he now gets from the lawbreakers through all his labor to enable them to escape just punishment. Wise business men should form the habit of conferring with political leaders more and more, for such leaders are inevitable. You can no more get rid of the political leader in America under our party system of government than you can do away with colleges or universities or courts or any similar institution. The party machinery is so cumbersome that you do not understand one-tenth of it, and you could not understand one-tenth of it unless you gave up one day a week to the study of politics. You must have professional politicians. Therefore you should co-operate with them, recognize them as inevitable, and try to elevate their methods by guiding them along sensible lines and by convincing them that decent people will support them if they will follow decent policies, and will supply more votes to

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the party than the lawbreakers can command.

Another criticism is that we should abolish jury trials in all minor criminal cases. It is silly, absolutely absurd, to take up the time of a judge and twelve men in trying most of the liquor cases, for example. Twelve good men and true, at four dollars a day, one judge, ten or fifteen court officers, and a large courtroom are occupied in trying cases so petty that the proceeding lowers the dignity of the court and weakens the authority of the state. If you had served on the jury you would realize how I have felt, sitting as a judge day after day trying the liquor prosecutions of the character I have referred to. A judge feels as if he were a magistrate, that the position to which he was elected is not so dignified after all.

All of these prohibition cases, except the ones involving the big fellow, some big issue, should be tried by a judge without a jury, quickly, promptly, and the man punished and sent away. This method also should apply to assault and battery cases, all neighborhood quarrels and similar issues.

And lastly, we should select jurors by non-political, discriminating methods, and compel them to serve, though they be laborers or millionaires. I could talk of this for an hour, but I could say nothing more than I have told you in these words. The judges

are willing. How do we select the jurors? I will take just a half minute to tell you, since Major Adams has said something<sup>4</sup> here tonight that does not apply to Philadelphia. In Philadelphia the judges select the jurors. I selected two thousand of them myself last year, for service this year, and I know no political influence had anything to do with the selection of the names. We mark the selections on the assessor's list, and then put the names in the jury wheel, whence they are taken out by the jury commissioner, who is above suspicion or reproach. There is not a thing political in the selection of our jurors. At one time some judges may have turned the lists over to politicians, but so far as I know none of them do now. However, we cannot make wise selections in haste. How can I select thousands of names from the printed assessor's list when I am as busy as I can be on other very important things? Hence, I say that we welcome any plan by which the choosing of the names for the jury wheel shall be put in the hands of non-political persons, men or women, who will select persons of character and intelligence, though not necessarily of high standing, because we want some common sense on the jury, and you do not always find it in the socially favored.

<sup>4</sup> See page 143.

## Dealing with Crime—Some Urgent Needs

By OSCAR HALLAM

Chairman of Section of Criminal Law, American Bar Association

I AM asked to discuss the detection and punishment of crime as viewed, *first*, by myself in the light of my own experience, and *second*, by and through the Section of Criminal Law of the American Bar Association. My own

first-hand experience is limited to occasional periods on the criminal branch of a trial court, and my observation otherwise has been such as any lawyer or citizen may make. The Section of Criminal Law of the Amer-



ican Bar Association has indulged in discussion of crime problems and at this time has some definite plans in outline to which reference will later be made.

To begin with, the crime problem will always be with us. Do what we may, we can never wholly exterminate crime. We have waves of greater or less magnitude now and again which may call for special treatment, but the great steady stream that flows on and on concerns us most.

The suppression of crime is essentially an official function. For the day in and day out work we must rely upon the public officers of the law. Special commissions and civic bodies may propose measures and may arouse public opinion, but, after all, the real work must be done through the permanently established authorities.

#### INADEQUATE INFORMATION

Naturally, in order to deal intelligently with any subject, we should first have a knowledge of the facts. In any consideration of the crime problem we are hampered because the facts are not to be obtained. No state keeps accurate or comprehensive statistics of crime. No attempt has been made to collate country-wide information as to any crime except homicide. As to other crimes, there is no general source of information. The information we have is taken from grab-bag sources. We talk and write endlessly and criticize volubly, knowing all the time that we have not adequate information as to facts to show us the places where criticism should fall. A physician would not treat disease without knowledge of all the symptoms. A lawyer would not advise a client as to the law of his case without knowing all the facts he could obtain. An actuary would not fix rates without accurate knowledge of former results. Yet, we

are obliged to treat crime and discuss crime problems without much of a semblance of understanding of the extent and scope and history of it or of facts necessary to fix the blame for failures. The same scientific methods which have proven so necessary to success in all other fields of human endeavor are entirely wanting on any broad scale in dealing with crime.

Practical consideration should dictate that there be some definite authority, call it a bureau or what you will, to gather, co-ordinate, standardize, and make available information concerning crime, criminals and the disposition of criminal cases so that we may see the sagging places in our system.

#### CONFUSION OF NOMENCLATURE

Another difficulty lies in the fact that there is no uniform nomenclature for crime. In designating crime no two states speak the same legal language. For example, official reports show that Boston has no burglary but a liberal number of "breaking and entering" dwellings and other buildings at night. Most other states call them all burglaries.

This babel of crime language, combined with absence of any adequate records or statistics, makes difficult, and in some cases hopeless, any comparison between localities. If we are to deal intelligently with the crime problem, we must have uniform laws defining and classifying crimes.

Yet we have some valuable sources of information.

The U. S. Census Bureau compiles statistics of persons committed to prison during each year and of the prison population at the beginning of each year. The Census Bureau also compiles statistics of homicide. This compilation of statistics of homicide started with two states in 1880. It

has gradually enlarged the area covered, and in 1924 covered thirty-nine states and fourteen cities in other states. The term homicide as here used includes manslaughter, infanticide and also all forms of justifiable homicide.

As to other crimes, there is no general source of information. Clerks of courts keep records of the cases in their courts. As a rule they are not compiled or published. Prosecutors sometimes keep records of prosecutions, but as a rule they are not published. Police departments sometimes keep a record of arrests and sometimes of reports of crime. In a few cities private organizations collate information. Usually no two sources of information agree. There is an entire want of system or uniformity. Most states pay no attention to the subject. In a few the attorney general receives from local prosecutors the number of criminal cases handled and this information is tabulated. There are other similar sources of information, of some value, but in all so incomplete that it is impossible to get the real facts as to the extent of crime or as to the methods of dealing with crime.

This entire want of any comprehensive sources of information, coupled with confusion in nomenclature, has resulted in a flood of speculative and inaccurate statements. Occasionally some real investigator gathers a store of valuable and reasonably accurate facts. More often, perpendicularity of statement takes the place of real informative data. Sometime ago I learned of a statement coming from a source which seemed to be authentic, that indemnity insurance companies had actuarial tables in respect to crimes insured against that were as certain and reliable as mortality tables, and that these tables disclose that such crimes have increased 1300 per cent in

the United States within the last ten years. Upon investigation, I found that no such actuarial data exist and that the compilation of such data is impossible. From such information as I could obtain, the percentage of increase above suggested seems to bear no relation to the actual facts.

#### ACTION AT THE DETROIT SESSION

The Section of Criminal Law of the American Bar Association at the last session in Detroit took up this phase of the crime problem and made its report to the Association. It emphasized the fact that if we are to deal intelligently with the subject, we must take more than a symptom here and there; that we must take a broad survey of the whole field, mindful always of the fact that the problem is one that calls for work, that is, not casual, but persistent and well-organized, and requiring the co-operative effort of all agencies for the suppression of crime; that professional criminals are organized, their organizations at work all the time; that the agencies for the suppression of crime are not organized and often do not co-ordinate; and the Section proposed this resolution:

WHEREAS, this meeting of the Section of Criminal Law has revealed that although much has been said about defects in the administration of criminal justice, very little has been done in a thorough scientific way to determine either the extent or the cause of those defects; and

It is clearly apparent that the work which most needs to be done is an intensive and extensive investigation of existing conditions, followed by a careful analysis of facts, known and to be discovered; and

These casual annual meetings can do little more than to reveal a wide range of points at which much investigation should be commenced; and

There is at the present time no organization engaged in a comprehensive survey of the whole field of criminal justice, al-

though the need of such a survey has been long recognized;

*Therefore Resolved*, The Section of Criminal Law recommends to the American Bar Association that steps be taken during the coming year, under the direction of the Section of Criminal Law or otherwise, as the Association may deem best, to secure better and more uniform information and statistics as to crime and criminal procedure, and, if possible, to secure a survey of the whole field of the administration of criminal justice, to determine at what points the present system is defective, and in order to enable the Association to determine to what defects it shall give its particular attention.

That such work be carried on in co-operation with the work of the present Committee on Law Enforcement of the Association, and with present existing agencies, such as the American Institute of Criminal Law and the American Law Institute, or any National Crime Commissions now engaged in the study of particular phases of the general subject of the administration of criminal justice.

We appreciate the difficulties in the way of securing a general survey, but we indulge the hope that through some means this may be secured.

Permit us to suggest that this is by far the most important and urgent task now before the American Bar; that the next program of the American Bar Association respond to and reflect the Bar's consciousness of this importance and urgency, by laying emphasis, in topics and speakers, upon this matter of criminal justice.

Since that time, the Section of Criminal Law of the American Bar Association, in collaboration with other organizations, has been lending its efforts toward securing a survey which will show the inadequacy of present sources of statistical information as to crime and criminal prosecutions, to the end that a system more complete and uniform may be devised and put into effect throughout the country.

#### APPLICATION OF OUR CRIMINAL MACHINERY

If we are to make headway, we must get down to a basis of fact. Take the facts, no better and no worse than they are. Brush aside false and illogical deductions and comparisons and proceed to treat the symptoms as we find them.

The mistake is often made of charging all of our failures to some one agency. Sometimes it is the courts, sometimes sentimentalism on the part of juries, sometimes the officers vested with power of pardon or parole, sometimes the maudlin sympathy of the public. The fact is we have a chain of agencies dealing with every criminal. They include the police, the examining magistrate, the grand jury, the prosecuting attorney, the trial judge, the trial jury, the appellate court, the powers of pardon and parole, the legislature, and last but not least, the Great American Public.

The police is the first instrument in securing justice. Efficient police action is indispensable. Most criminals doubtless expect to escape arrest. Probably few would commit crime with the certainty of rushing into the arms of the police. A percentage may figure that even if apprehended, guilt cannot be proved, but few will bank on it. Perhaps some will gamble on beating the game by delays and technicalities. Not many will bank on the hope of escape after conviction. The police problem is a large one. Thousands of criminals escape arrest. On account of our expanse of territory and the absence of the offensive espionage common to some European countries, apprehension of suspects is especially difficult. Our policemen are not so numerous as in some European countries and are not so well trained. We secure fairly good co-operation among

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local police organizations, but generally it is wholly voluntary. We should have some more definite method of training our police and of unifying and co-ordinating police action.

In the case of major crimes, the next instrument is the examining magistrate. This official requires but passing mention. There is little delay or miscarriage at this stage of the case.

The next instrument is the prosecuting attorney. Upon this official, more than any other, depends the conviction of the criminal after arrest. In one county, fairly representative, last year 449 cases were disposed of, of which 344 pleaded guilty, 86 cases were nolle, and 19 were tried. By inefficiency or collusion the prosecuting attorney may loosen the hold of the law on any man. On him depends largely the responsibility for prompt prosecution. The laws are flexible. He may hold them taut or not, as he chooses. He may minimize waste of time in selecting juries and on the trial.

The next instrument is the trial judge. His function is of great importance. Prompt justice is a great deterrent of crime and the trial judge may do much toward this end. He is often hampered by unwise laws that permit delays that he cannot avoid, yet he may, under any laws to be found, determine very largely the measure of promptness to be secured. He may speed the disposition of the calendar of cases of men held for trial, to the end that they may not be too long either in jail or on bail. And he may or may not, as he chooses, expedite the progress of the trial. The laws of most states permit wearisome fishing expeditions in examination of jurors. The trial judge may largely limit this abuse.

The trial jury is an important instrument for certain justice, but the juror has little control over the element

of promptness. Yet he is the innocent occasion for much expenditure of time.

The next instrument is the appellate court. The importance of this court as an instrument of certain justice is overestimated. Only a few criminal cases ever reach that court. In one state in eight years, seventeen homicide cases tried were appealed and one reversed. Of other cases, one out of about 300 was appealed and one out of about 1200 reversed. Yet the process of new trial and appeal sometimes lends itself to much delay. Reversal of verdicts for error, which could not prejudice the defendant, are unfortunately found in the books. In one case a verdict was set aside because the word "aforethought" was omitted after the word malice. In one case an indictment was held void because the word "the" was omitted in the closing words against the peace and dignity of "the state." In one case a verdict of larceny was set aside because the court instructed the jury they must find intent to steal instead of criminal intent to steal. In one case a verdict of manslaughter was set aside because the deceased was described as "Percy Stucky alias Frank McCormick" and there was no proof that his real name was Percy Stucky. I feel sure that these cases are exceptional, yet they show a tendency to subject substance to form, which cannot be patiently endured.

Determination of appeals should be more prompt. Our legislation on this subject is generally archaic. No man should be compelled to serve a sentence until his guilt is finally determined, but neither should a convicted felon be long at large.

The next instruments are those of pardon and parole. Most criminals figure on the severity of sentence. The habitual criminal will calculate closely on this period of interruption of his



established business. Relaxation of sentence tends greatly to lessen the deterrent influence. In my judgment the power of pardon, commutation and parole has been overexercised. I am told that the governor of one state pardoned over 1100 prisoners during last year. If this is true, then there has been either woeful miscarriage of justice in the courts, or an extravagant abuse of the pardoning power. The former premise is not a probable one.

In most states the power of pardon and parole is vested in whole or in part in the governor. My own notion is that the power is judicial rather than executive. I should like to see this power vested in a judge or judicial tribunal which would determine such matters in a manner akin to proceedings in a court of justice; applications for pardon and parole should not, as is now the rule, be made *ex parte*, but the state should be represented by counsel as it is on a criminal trial.

A most important factor in the problem of securing prompt justice is the legislature. Most officials engaged in the administration of justice are handicapped by laws which they must obey. The statute law permits waste of time in examination of jurors and woeful delay in the process of motion for new trial and appeal. Yet legislatures seldom take initiative in such matters and often are deaf to appeal. A few years ago the Chief Justice of the Supreme Court of Minnesota and a District Judge, members of a crime commission appointed by the Governor, framed an admirable bill for expediting new trials and appeals in criminal cases. Under its provisions the motion for a new trial must be immediate. The court reporter must be immediately detailed to prepare the transcript of evidence. Appeals must be taken in ten days and the case given right of way on appellate court calendars.

No objection was raised to the bill. Through sheer indifference it was buried in the mass of bills that never came to a vote.

Legislation should regulate by stringent enactment the sale and the possession of firearms. The menace of the gunman would be reduced to a minimum if he could be deprived of this instrument of death.

The last important factor I will mention in the problem of securing prompt justice is the American public. This is by no means the least important. The public does not always rise to its responsibility. For example, not long ago a man was convicted by a jury of manslaughter arising out of reckless automobile driving in a rural county. He was sentenced by the trial court and the verdict and sentence were affirmed on appeal. On the eve of the departure of the defendant for the penitentiary his neighbors gave him a public testimonial banquet, just about such a send-off as similar communities were giving a few years ago for the soldiers who were going to war.

Public opinion intelligently directed can accomplish any right purpose. It can speed the activity of any official. It can deter the obstruction of any attorney for the defense. It can stimulate any court to the establishment of right rules and practices. It can secure from legislatures any salutary law. But it can be effective only when its demands are intelligent, only when its criticisms are just, based upon proper possession of facts, and taking into account all of the elements of official responsibility. It must take into account that all of the agencies above referred to must function effectively if we are to have an effective machine, and that the imperfection is not to be found altogether in any one agency. So long as public criticism is spasmodic or based upon erroneous

supposition of facts or illogical inferences, and so long as it deals with the question in parcels, it will have little weight.

#### IN CONCLUSION

The conclusion of the whole matter is that too many criminals escape arrest; too many who are arrested are not promptly brought to trial; there are too long bail sentences; too much delay in prosecutions; too much delay after con-

viction in case of appeal; too many criminals sentenced are released before their time.

But if we are to make headway, we must realize that this is a very human problem. These agencies for the suppression of crime are human agencies, with human imperfections and still susceptible of the marked improvement which we may get in any human machine.

# Protecting Society Against Crime

## The Treatment of Crime and the Criminal

By E. R. CASS

General Secretary, American Prison Association and the Prison Association of New York

**T**HE care of the criminal and the protection of society are the objects of those who work for prison reform. That work means ministering to minds diseased, unhappily surrounded, and badly influenced in youth. Back of many convicted criminals there is a history of misfortune, mental defect, evil surroundings. It is not necessarily a man different from others that you see in the prison cell, but often a man more unfortunate than others.

### THE GOAL

The fundamental principle of modern prison science is the improvement of the offender; the entire penal system of a state resting upon one single proposition—the protection of society. That principle alone justifies the conviction for crime and the imprisonment of offenders; to that end the energies of the progressive prison administration are directed. The protection of society, however, is a broad aim; it is only partially and temporarily secured by the mere incarceration of the offender, and it is wholly lost when he is discharged from prison. In order to render the protection effectual and permanent, the offender ought to be subjected to such a disciplinary training in prison as shall tend to rescue him from a life of crime after he regains his freedom. Hence it is that the reformation of the offender not only becomes a legitimate aim, but should be made the paramount aim in the prison régime. In a political sense, however, the effort made by the state to reform the con-

vict does not rest upon a humane, paternal sentiment, seeking to reform the convict for his own good alone. The state is not a charitable or missionary agency and it owes no greater duty to the convict than to other individual members of the community. But reformation is the most reasonable and safest means of protection; the public welfare demands it as a governmental measure best adapted to secure the common safety and promote the general good.

The improvement of the offender does not mean the reformation of the offender in the sense in which these terms are often abused—a guarantee against any further commission of crime. For where is the person for whom such a guarantee can be given? Even the Church cannot promise that for its most devoted followers. But what is meant is that, being entrusted with his freedom, there is no reasonable probability that he will again commit crime. When he has become simply and permanently a law-abiding subject the state has accomplished its whole aim and duty.

The end and aim of the law is justice and as the student in penology progresses, the difference between former and modern methods of its administration is plainly evident; and even justice itself may be defined by different standards. Formerly the law took cognizance of the offence to the exclusion of the offender, the spirit of the law being replete with the elements of vengeance, retribution and retaliation. The trend of all criminal juris-

prudence was that the treatment of the offender should be purely punitive rather than corrective; that the system under which could be inflicted the greatest moral, mental and physical punishment was the object sought, rather than with a view to the future safety to society and the usefulness of the offender.

Punishment for crime and prison discipline for criminals, though usually confused, are two very distinct things in themselves and may be separately defined. The object of punishment is to deter from crime by the infliction of suffering; the object of prison discipline is to reform the offender. In practice these two objects are and ever must be combined. The one or the other may predominate, but every sentence contains both, and the due adjustment and application of the two constitute the science of penology.

#### THE PROBLEM

Punishment and constantly increasing severity are urged by many as the proper penalty for a criminal act and most likely to prevent its recurrence, while others believe that the deterrent effects of penalties have been very greatly over-rated, and that education and culture are not only necessary to proper citizenship but by far more permanent in results. This is the great question then which demands settlement. Which shall it be—punishment and suffering and fear, or education and culture and hope? Criminals are surely defective in some way. It cannot be in the interests of any man to be a criminal and therefore as soon as a man is broadened and developed he ceases to be a criminal.

Lack of wholesome educational training is the outstanding characteristic of most of the inmates of our penal and correctional institutions. The typical young offender was born in the slums

of a city, and too frequently from infancy he has lived in the deteriorating atmosphere of filth and crime of every sort. Can it be reasonably expected that a physical application can remedy a mental and moral defect? If this is so it might be similarly expected that a course in higher mathematics can cure tuberculosis. Hardened by varied living many offenders expect upon entering prison, and in a sense will enjoy, a continuance of the varied conflicts which have hitherto made up their lives. How can you scare intelligence and morality and cleanliness and sensitiveness into such an offender by any severity? Again, can you expect by any punishment to induce him to comply with law, while every emotion that has ever come into his life and every impulse which guides his activities, and every association from the day he was born, have been evil?

Is it possible that fear alone can be relied upon to change the fixed and rooted habits of a lifetime? Experience and reason condemn it. There is nothing in the stone walls and iron bars of a prison that can purge a human soul. Brutality and harshness will cultivate secretiveness and vindictiveness and all the base emotions, while the best lie dormant. Extreme severity can never tend to an intelligent and moral uplift. It is better that effort be made to improve the prisoner by the ordinary processes of education because intelligence is necessary to citizenship. Such education should consist of an unfolding and development of all the germinal powers until the prisoner is rounded and broadened into an equally developed man if possible. A prison population is certainly no better than the average population outside a prison, which would seem to be a sufficient reason why every opportunity of schools and religion, and correctional methods of every sort should be



extended to the one, which we usually supply to the other, for the prisoner of to-day will be at liberty to-morrow, either as a citizen or as an unimproved offender. It is our duty in our own interest to prepare him for citizenship if possible, not alone because such a course is agreeable to the teachings of a true religion, not alone because it is right, and humane and agreeable to the better feelings and sentiments of a Christian state, but for the additional reason that it is by far the most economical.

#### THE TREATMENT

There is no benevolent enterprise among us which more deserves our sympathy than that which expends its energies on prisons and prisoners. Its immediate objects are our fellow citizens and neighbors; its results ought to contribute largely to our individual comfort in the greater security of person and property. Much has been done for the physical comfort of our prisoners, some say too much. At present it is frequently stated that the inmates of penal and correctional institutions are being coddled. Doubtless in many cases too much money has been spent in building prisons; but it does not thence follow as a matter of course that the prisoners are thereby made more comfortable. It is true that a prisoner in a modern prison enjoys many comforts, and we do not give him unwholesome or insufficient food. Everything provided should be clean and wholesome, but it must not be forgotten that with all his comforts the prisoner wants the *priceless treasure of freedom*. He feels himself no longer a man but a machine. All he requires is provided for him, but he does not earn it; he must have it whether he will or not, and this takes away its sweetest relish. His every moment is

regulated for him without his consent, and in this lies one great part of the effect of imprisonment as a punishment. The ordinary class of prisoners are accustomed to unrestrained freedom of action; deprived of this they are severely punished. They are accustomed to live constantly in the society of their comrades; deprive them of this and all the comforts of the best constructed prison and the highest rate of dietary will not compensate the loss.

Further, so far as the prisoner is concerned he ought not to be idolized nor should he be ostracized. We cannot treat our great social problem on the basis of either excessive sentimentality or excessive hatred. We must change from the procedure of "mass treatment" to that of treating the needs of the individual. We must address ourselves to the study of men, whether reputable, criminal or pauper, as components of a social tissue so closely correlated as to be incapable of disavowance. No mere casual acquaintance with the individual felon or tramp will do; still less this casting up of congregate units who chance to be in jails or prisons and labeling them a "class"; but a thorough knowledge of each prisoner—his antecedents, his training, his associations, his motives, his congenital defects, the distribution of these elements of character in his relatives both lineal and collateral—and the action which established law, beliefs, customs and physical surroundings produce on him, and his reactions upon them. On the basis of such knowledge it will mean that emphasis must be made along certain lines of treatment. For one it will necessitate spiritual, physical and moral training; for another industrial; others academic; others medical and mental; and these failing, permanent custodial care.

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## Some Factors in Crime Prevention

By ADOLPH LEWISOHN  
New York City

THE prisoners of to-day were children or young people twenty years ago. The prisoners of to-morrow are now children or young people in our midst. Are we not at least partly to blame for our negligence or inability to help these children or young people by giving them the right opportunity and surroundings? Is it the fault entirely of men in prison that they went wrong? Are not the prisoners only the unfortunate consequence of our neglect or incompetence? It is self-evident that all the people who are going to be put into prison within the next ten or twenty years or beyond that time, if they are above that age at the time of their imprisonment, must now be living and are the children or young people of the present day. There must naturally be a very large number of children or young people or people of middle age now in the community who will go into prisons during the next ten or twenty years. The prisoners of to-day were part of the general population before they were sent to prison. In childhood they could not have been criminals, but many have become such either through circumstances, or their surroundings, or faulty treatment, and we are all in a way at fault in that we have not been able to influence these children and young people to follow the straight path. The blame cannot entirely be laid on the prisoners who have not had the right opportunity and who have had to live in the wrong surroundings. Are we not in part to blame if we neglect or are not able to bring up children or young people so that at least

only a small number will have to go to prison later on?

While I think the reports about the crime situation are somewhat overrated, I agree that the condition is a very serious one, and ought to be at least partly remedied as soon as possible, if it cannot be entirely corrected. We must concentrate for the present particularly on the serious crimes, like theft, robbery, murder, etc.

### FACTORS IN DECREASING CRIME

The automobile is one of the principal accessories to the crime wave, but as the automobile has come to stay, means must be devised by which to counteract this menace as far as crime is concerned. The easy procurement of firearms, guns, pistols, etc., is also responsible for many of the crimes of violence. If it could be made more difficult for robbers and thieves to own or procure firearms, it would be very desirable. The difficulty is that such restriction is apt to result in the law abiding public being prevented from having them for defense, while the criminal somehow or other manages to procure them. An indirect factor in decreasing crime, which would however only influence the future, would be to improve the education of the children and general public to reach the largest number of people possible; to provide better housing conditions; reasonable hours of work; facilities for rest, recreation and wholesome amusement for the masses; to do away with unemployment, and improve the condition of the people who have difficulty in procuring

an adequate income to meet their wants. When I talk of education I do not mean particularly the study of the regular courses, but the building up and improvement of character and of mutual understanding and co-operation among all classes.

It would be a great help if we could create an intense enthusiasm among a large number of people to do away with crime or lawbreaking entirely or reduce it to the smallest amount, to set a good example, everybody, the wealthier as well as the poorer classes, co-operating toward this end. In these times of prosperity most people can get along better in an honest way than by engaging in criminal acts. I remember one of the prisoners at Sing Sing who was a good bricklayer expressing his regret that he had engaged in the criminal act of picking pockets, as he could have made more money by laying bricks. The evident desire of the authorities is to do all they can for the welfare and comfort of the people, not only in order that those in office may get on politically, but that the general public will be benefited. The highest example of absolute justice and no desire for mere personal aggrandizement on the part of the public authorities themselves are very important factors. In other words, there should be no pretense of justice, so that the underworld will realize that the aim of the authorities is the public good and that they are absolutely uninfluenced by politics or money power. All these things will have a good influence.

The right spirit in prisons has also much to do with it. Unjust and mean treatment only results in bitterness and a feeling of vengeance. A prisoner broken down in health and spirit can never be any good. Bad treatment in prison will only in very few instances prevent the criminal from committing crime again after he is discharged.

In most instances he will lead the old life, evade being arrested and punished, and if he is unfit and cannot find a way of making an honest living, he will be forced again into crime. Another important factor in the matter is the education of the prisoner in prison. It is well worth while to employ good teachers of refined personality to teach the prisoners and delinquent children in the institutions, having in view particularly character building. Prisoners should be employed so that they will get used to work and be able to support themselves after their discharge. Prisoners who have been idle for years inside of prisons and never knew much of honest work any way or had forgotten it, certainly are of no benefit to the public after their release. They are, rather, a menace.

The prisoners personally must realize that the public is interested in them and willing to help them. A spirit of mutual good will should be created. Representative people in a community should co-operate to bring about better conditions. Let the prisoners come out equipped to take care of themselves and their families in a spirit not of revenge but of co-operation. The prisoner must feel that he is getting a fair deal and is expected to make good.

Chaplains of the different religions should not only attend to the religious service but interest themselves personally in the different prisoners of their creed and see if they cannot influence them to be better when they go out of prison.

As an immediate remedy for the crime wave there seems to be only one course to pursue. The authorities should be of the highest type, interested only in the welfare of the public, and should make it clearly understood, particularly to the underworld or those that are likely to be employed in criminal pursuits, that they are active

and able to detect crime wherever it may be perpetrated and to detect it quickly; that the machinery is there to stop it, to arrest the criminals and to have them tried quickly. Thus the criminally inclined will feel that there is very little chance of their escaping detection or evading punishment either by money power or politics or the cleverness of lawyers, etc. In other

words, that swift and sure justice will be administered and that no effort or expense will be saved to carry this out. In time swift justice will be less costly to the community than slow detection and delayed prosecution of criminals. A good many criminals then will refrain from criminal acts and find it more advisable and profitable to make their living in an honest way.

## Suggestions on Crime Statistics

By I. M. RUBINOW

Executive Director, Jewish Welfare Society of Philadelphia

**W**HAT are or should be the objectives of criminal statistics?

A. We want to measure crime frequency. The first objective, obviously, is a proper enumeration of crimes committed.

B. We want to know of tendencies and trends. That means that our statistics must be related to time and place, and that the value of statistical information will become greater as it accumulates. It is preposterous for us to talk either of an increase or a decrease in crime when we do not know even how much crime there is at present.

C. We must learn all that we can learn about the criminal, which means a careful statistical study of the individuals who have committed the crime; a study which may be made as broad as conditions will permit us; a study which must extend into the fields of medical, psychometric, anthropological, ethnographic, and sociological statistics.

D. We must study quantitatively society's reaction to crime and criminals, and the measures which society is taking in dealing with criminals. That means a very careful statistical study of arrests, indictments, trials, sentences, executions, commitments, pa-

role, probation, discharges and pardons.

E. We must make at least an effort to find out the effect of these various methods of society's reaction to criminal conduct, and the comparative value of these various methods. How else may we argue for or against any specific method of handling the criminal unless we really know something of the comparative effects of the different methods? Unless, indeed, we insist that in these all-important matters we should be guided by sentiment and prejudice rather than knowledge. That presupposes the follow-up system for years after discharge; a study of recidivism, of social methods of care of the discharged prisoner; a study of the families to which prisoners return, etc.

F. We must make an effort to establish causal relationships. The question "why?" is naturally one which worries us and should worry us most. It is not an easy question to answer, but surely the present method of jumping at conclusions, of emphasizing one or the other factor to the exclusion of all others, is worthless. Refined statistical methods, after all, do present an instrument for better



study of causal relationships, either in place or in time.

To sum up, then, the things we are looking for or should look for in crime statistics are, in non-technical language, the following: How much crime? What kind of crime? How much of each kind? More or less? What are we doing about crime? What are we doing with the criminals? What are the results of our present methods of treating criminals? Why? Why and when is there more or less crime?

A big order, to be sure. All of it cannot be tackled at once. But a beginning must be made. In fact, a beginning or several beginnings have been made in various places. The time has come to elaborate, at least in theory, a complete program of crime statistics, to co-ordinate such efforts as are being made, to introduce uniformity in such efforts, to extend them as rapidly as possible through the entire country.

Will it cost much money? Of course it will. A good deal of it. But surely if there be any truth in some of the estimates on the cost of crime which are being handed out so glibly, and run into billions of dollars, the cost of even the most comprehensive system of statistics will be only slight in comparison. If we are serious in our feeling that our "crime wave" must be combated, we will spend the necessary money to study it, and if we refuse to do so, then (at least, psychoanalytically speaking) there arises a great suspicion as to whether we are really so alarmed as we claim to be; whether we have not complacently accepted the situation, and whether the current sensational agitation in reference to crime is anything more than just a new newspaper sensation.

Of course the problem is complicated statistically. Every important branch of social statistics is extremely complicated, and until it develops its own terminology and methodology, may

appear almost hopeless. The program briefly outlined above presupposes a great variety of methods of approach. Some of it requires the initial step of statistical inquiry; namely, enumeration, and to be satisfactory, it must be as comprehensive as possible. Some of it, dealing with complicated relationships, may be satisfied with the sampling method; that is, a very intensive study of representative samples, provided sufficient care is exercised to make them truly representative. Some of it, as for instance the study of causal relationships, is entirely a problem of statistical analysis, of application of modern "scientific" mathematical methods which are being so rapidly perfected in our universities. It means the correlation of statistics of crime with statistics of a great many other economic, biologic, and social group phenomena. That is, in the nature of things, the last step to be looked forward to. The professional statistician can only shrug his shoulders at the glibness with which this last stage is tackled without any of the preliminary information available for the purpose.

The point cannot be emphasized too strongly that the first step is a comprehensive system of the bare acts of occurrences designated as crime. How much? is the first problem that now confronts the criminal statistician (with due apologies for a very cheap pun).

#### METHODS IN THE INDUSTRIAL FIELD

For no other reason than that the writer has had considerable experience in an entirely different branch of statistics, namely, that of statistics of industrial accidents, a few lessons may be drawn from the experience in that field. When accident compensation was first being introduced in this country, some fifteen years ago (or to be more accurate, when the problem of accident compensation first gained the

interest of the public some twenty years ago), our information in regard to industrial accidents, their frequency, their causation, their effects, was about as scant as proper crime statistics are now. The wildest sort of guesses were made in regard to accidents then, as they are being made in regard to crime now. The problem of proper uniform statistics of industrial accidents for all of the United States has not yet been satisfactorily solved, after twenty years of endeavor in the field. That is, of course, very unfortunate, but it is a part of the heavy price which we in this country must pay (and it may be worth it) for our system of governmental decentralization. But at least in certain political jurisdictions, and within certain limits, differing from one state to the other, which have been established by law, accident statistics have been created in this country. We do not know all there is to be known, but we know a good deal, and we know at least enough not to make any wild guesses. We can supplement the field of the known by fairly reasonable estimates covering the field of the unknown.

There were several steps in the evolution of accident statistics which must be taken in the correlated field of crime statistics. These are:

- A. Definition of terms.
- B. A system of reporting.
- C. Machinery for statistical tabulation and analysis.
- D. Machinery for co-operation and uniformity between various agencies concerned.

All these problems must be met, at least to some degree, in the field of crime statistics. With due apologies to the reader who may at this time have absolutely no interest in accident statistics, I will take the liberty of continuing to draw upon that field for technical illustrations.

#### NEED FOR CLEAR-CUT DEFINITIONS

Crime is a very broad, comprehensive, but also loose and dangerous term to use unless properly defined. The Standard Dictionary definition may be as good as any other: "Crime: 1, law: an act that subjects the doer to legal punishment; 2, any grave offense against morality or social order."

A goodly volume could be filled in an effort to discuss these two definitions: the legal and the social one. Notice that a sociological definition limits it to a *grave* offense, while the legal extends it to *any* act. That alone is sufficient to indicate how futile all our discussions, all our symposia, all our conferences, and congresses on crime must remain if people will persist in shifting continuously from one conception to the other without even realizing (and most don't) that they have been doing so. A rapid increase in *crime* may be a dangerous thing if it means a rapid increase of grave offenses against morality or social order. It may mean very little if we only mean a rapid increase in the acts which would subject the doers to legal punishment (provided the doer has been caught!). Granted that the mores do not oppose the partaking, the offering and even the purchasing, of domestic brewing or fermenting of spirituous liquors (the same mores illogically enough do draw the line at selling), any statistics of legal crimes in connection with the 18th Amendment, or even statistics that fail to isolate this group of "crimes," are absolutely of no value if what we are concerned with is the frequency of sociological crimes.

Now this primary difficulty of definitions is not peculiar to our problem. Even the popular word "accident" is just as complicated a term. It may mean simply a fortuitous event, a mishap, or any non-essential circum-

stance. The term "industrial accident" had to be defined very carefully, not only for legal, but for statistical purposes, and the definitions may not always agree.

Two trains collided; perhaps a dozen people were killed and a hundred injured. We speak of it as a railroad accident. In our accident statistics this is to go down as one hundred and twelve accidents. The workingman scratched a finger. He may never think more of it; statistically, nothing happened. He has reported the case, as he probably should. It became a "reported" accident. He received medical aid, and perhaps stayed away from work for a day if the injury was sufficiently serious. It became a "tabulatable" accident. As a result of an infection he had to remain away from his employment for a week or two. It became a "compensable" accident. He may have developed an infection and died three months later. The scratch has been a "fatal" accident.

Even so in crime statistics. Two prize fighters have fought to a finish. One received a knockout blow. The audience was wildly enthusiastic. Was a crime committed? Perhaps, in the opinion of a moralist or esthete but not legally. One failed to recuperate within the next few hours. It may or may not be a case of assault. He died the next day and "death through violence" is reported to the Bureau of Vital Statistics. It is a case of homicide, and perhaps Mr. Hoffman may add it to his statistics of murders.

Trite and almost bromidic, to be sure. But how much of our literature on crime is based upon total disregard of this elementary requirement? Now the terms in the whole field of criminology and penology have been used for so long a time that there is no excuse for the absence of any clear, well defined, almost mathematically exact,

definitions. Probably such definitions exist. In any case, this is a problem for the non-statistical specialist, for the legal profession with the help of students in criminal sociology: not only a careful definition of each kind of crime, but an effort to *make those definitions uniform in the numerous jurisdictions of our states and different courts*. It is a technical problem and it is not necessary for me to go any further into its discussion, except to point out its very great importance, and the necessity of a conference or a commission method to solve it.

Granted that we have such clear cut definitions of all possible kinds of crime, from murder down to playing baseball on Sunday, or even taking a drink from a flask, how are we to get statistical accounting of all the occurrences?

#### METHODS OF OBTAINING DATA

Right here we must confess that absolute completeness is impossible. Even the best soap claims to be only 99.44 per cent pure. No complete records of any acts of the entire people can be obtained. We may go on for another twenty years developing accident statistics without having a complete record of all the bruises, scratches, or strains which legally come under the definition of an industrial accident. I believe there is a legal principle (though I am speaking as a layman) that the law may not take cognizance of trifles. Neither should statistics. Only a supernatural power may be expected to have a complete record of how many times a sip from the hip flask was taken, each one perhaps constituting a crime. Sociologically speaking, all behavior is social, and there has been no act or crime unless in some way society has taken cognizance of it.

Now crime statistics have at least that advantage over accident statistics: that there is already an almost auto-

matic way for society to take cognizance of a criminal act of sufficient importance to be recorded and studied. In crimes against property there is always (or almost always) an appeal to some public authority. This may be no more than a hurried telephone call to the police station in case of theft. Even though the criminal or a suspect may never be apprehended, the record of *crime* still remains. Surely that is even more true of any serious act of violence against a person.

Thus, the first point at which crime statistics must be organized, if it is to be ever organized, is in the police station. The police blotter is the primary material upon which all statistics of crime, as distinguished from statistics of criminals, must be based. Perhaps that has already been accomplished somewhere. Unfortunately, not being a specialist in this particular branch of statistics, and having no time at my disposal for inquiry, I cannot speak of it with any degree of certainty. But surely it can't be very extensively organized, it can't be very carefully controlled, tabulated, analyzed, and studied, if one is to judge by the sort of information which is being fed to the public.

To make this initial record of crimes committed, or—to speak more accurately—of crimes reported, of scientific value, would require the same steps as have to be taken in accident statistics: A uniform reporting blank, and legislation demanding the use of it; undertakings for a professional statistician, for a scientific criminologist, and for a legislative authority. It may require a national movement towards improving the calligraphy of our uniformed police and plain clothes men, but after all, does the ordinary shop foreman of a small establishment find it any easier to present a proper accident report on a standard blank, and is the report of a

scratch or a burn or a cut necessarily more important than the first report of a fire, or the first report of a theft, or burglary, or homicide, or any other occurrence?

To repeat, compulsory reporting of every crime or illegal act which is brought to the attention of any public authority, on standard blanks prepared for the purpose by experts, and a compulsory tabulation of such reports by political and geographic limits on a national scale as far as possible is the *conditio sine qua non* of dependable crime statistics.

*Statistics of the Criminal.*—There are numerous stations on the *via dolorosa* between first apprehension of the criminal and his final disposition. On this road the main way stations are the police, the district attorney's office, grand juries, and courts of various instance, police courts, municipal, county, state, and Federal jurisdictions. The procedure usually is complex and costly. Only a legal expert can accurately enumerate these steps, and an expert in public finance might furnish the information as to cost. Obviously, statistical accounting at every step is necessary, and the cost of keeping such primary records very small in comparison with other items of cost. Limiting ourselves, for our purpose, only to criminal jurisdictions, arrests, grand jury actions and holding for trial, examinations by public prosecutors, and finally, trials and dispositions of cases in court must all be accurately accounted for. How much valuable material may be gathered in this way can be exemplified, for instance, by the very comprehensive statistical reports of the Municipal Courts of Philadelphia. As we advance along those steps, the number of cases to be handled rapidly decreases.

Now, no matter how overburdened our higher courts may be, the number



of cases handled by all of them throughout the year must be very small indeed as compared with the number of primary arrests. It does not seem unreasonable to require such a statistical blank referring to the defendant, or indicted person, or person held for trial, or person tried. It would not superimpose too heavy a burden upon the clerical staffs of our various judicial institutions. The clerical staffs of courts are, I believe, known not to be underpaid or over-worked. There should be no difficulty as to the competence of the clerical staff to record the necessary information on a concise blank after proper instructions have been given. Such a blank would be constructed around the person charged or sentenced, rather than the act committed. It is these blanks that would carry the necessary anthropological and social information.

*Statistics in Penal Institutions.*—In regard to all such institutions, the statistical problem involved is very much more simplified by the fact that a certain tradition already exists. The census of population gathered by the United States government from time to time is valuable, but does not reach far enough. Annual reports of admission and discharges are prepared by many institutions in various states. The difficulty is the scanty amount of information, and the dearth of sociological data because the institutions themselves are expected to prepare these reports.

The remedy lies in the same direction: standardizing these reports; widening the scope of information required of the responsible officers of such penal institutions; while at the same time relieving them of any statistical burdens beyond the gathering of original data on uniform blanks.

*Tabulation of Data.*—This article does not pretend to be a statistical

manual, but only an outline of necessary principles. It is unnecessary, therefore, to go into a description of various blanks necessary, or into the methods and purposes of tabulation. It is sufficient to say that with modern mechanical methods of tabulation at our disposal, the essential principle should be one of concentration of statistical work, at least within each state, under a special bureau under a government state department, whether it be the department of welfare or of the judiciary. Assorting and tabulating machines will thus serve hundreds of institutions, and hundreds of thousands of cards can be punched, analyzed and tabulated with a comparatively small clerical staff.

#### RESULTS

The layman and sceptic will naturally ask, "What is to be obtained from all this complicated and extensive machinery?" The answer is obvious. It will make available some accurate and truthful information both about crime and criminals, instead of the wild guesses so common and popular to-day. The value of such information will depend upon the degree to which it may be made all-extensive, and still more upon the degree to which it may be made uniform. Uniformity within the state limits should not be difficult to achieve through direct legislative action. Uniformity between states can only be achieved through conferences, and agreements of responsible authorities, and competent experts of various states.

Again, the experience of the field of industrial accidents may be quoted. Uniformity is far from perfect as yet. It is distressing that it should be so. But at least honest efforts have been made. The Federal authorities, through its Bureau of Labor Statistics; the compensation states, through the

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International Association of Industrial Accident Boards, and Commissions; insurance science, through the Casualty Actuarial Society of America; the insurance business through its various bureaus have been working together for many years. They accomplished the acceptance of some necessary definitions, and proper classification of accidents, and proper classification of industries, and even some understanding as to valuation of injuries of various degrees of intensity. At least the statistics of some states, if not all states, have become quite comparable. There is no reason why even greater results could not be achieved in the field of criminal statistics.

Granted such extensive and uniform statistics of crimes committed, of persons arrested, indicted, tried, sentenced, incarcerated, discharged, pardoned, paroled and probationed, and further granted that such information has been gathered for some time, gradually there will accumulate a body of information which will be helpful in formulating sociological theories as well as proposals for action. The final step of any statistical inquiry, the painstaking

analysis of results and correlation to other facts of our industrial and social life, may be entrusted to the wisdom and ingenuity of the sciences of statistics, criminology and sociology.

Whether and when this ideal will be achieved, it is not for the writer of these lines to foretell. But the time seems to be ripe at least for an earnest effort in that direction, and if our governmental authorities are not yet ready to spend the necessary money, perhaps a demonstration might be undertaken through private initiative with the assistance of a more intelligent state legislature. If the American people are really as concerned about the crime situation as they pretend to be, they ought to be willing to stand the cost. If it be true that our criminal records exceed that of Europe by hundreds of per cent, we surely ought to try to do something about it. But we ought first to make an effort to determine whether it is true, and what the possible causes are, so as to know just what to do, besides indulging in a hysterical and bloodthirsty clamor for a return to the penological ideals of 18th-century England.

## Observations and Experiences as Superintendent of the State Police of Pennsylvania

By LYNN G. ADAMS

Superintendent of State Police of the Commonwealth of Pennsylvania

FOR the purpose of scientific study of crime in the United States there are very few authentic data available. As an instance, we have no record of the number of crimes committed in the state of Pennsylvania; consequently, we cannot form an accurate idea of the number of criminals that go undetected. Nor is there any effective means of collecting such information.

This condition is general throughout the United States.

Between January 1, 1921, up to the present date, the Pennsylvania State Police have made 480 arrests in homicide cases. In 320 there is evidence of premeditation. From this fact, I conclude that most of them believed that they had better than a gambler's chance to escape detection, apprehension and

conviction. Every theft, robbery, burglary, embezzlement, forgery and swindle is the result of some person or persons believing that they could evade justice; each had conceived an idea that justice is not only blind but crippled, probably based upon their observations of the way our mills of justice have functioned in the past. Indeed, if I may be facetious, I would say that if you could see a reproduction of their conception of justice in a statue, it would probably be mistaken for the "Winged Victory of Samothrace."

Frequently in our publications we find articles saying that one thing or another is responsible for the unsatisfactory condition that exists as concerns crime. One will say that it is due to the inefficiency of the police, another that it is the courts' delays, still another that it is the economic condition of the country that permits a few to have much while many have little, or that the solution is a matter of eugenics, or that politics are responsible.

It is my opinion that conditions are a result of a combination of weaknesses in all parts of our law enforcement machinery.

There is no reason for me to cite facts or figures to show that we are having more crime in this country than is desirable. I think we may all agree that general law enforcement develops far too many failures. Therefore, I think it is best that I confine myself to stating what, in my opinion, are the causes for this undesirable condition and suggest what I consider would be some effective remedies. My opinion may or may not be correct, and my only excuse for expressing it is that it is the result of twenty years' experience in the Pennsylvania State Police Force, an organization that has handled as many as 120 murder cases and 11,000 miscellaneous crimes in a single year.

When our Forefathers formed the

Constitution of the United States, they endeavored to make despotism impossible. They sought to protect the right of the minority and the right of the individual, and to provide for equal and effective justice to all, and in so doing they created an instrument comparable to the modern adding-machine, which never fails to give a true result when it is properly operated and when all of its parts are properly assembled and are functioning as was intended by its creator. When any part fails, the result of the operation of all the other parts is to no purpose, or what is worse, an incorrect result may be reached.

The law enforcement machinery of the United States is made up of several more or less independent or disassociated units only co-ordinated by the fact that none can reach the full purpose for its being without the co-operation of the others. Each of these units is frequently actuated by influences which are opposed to each other, and the results are frequently unsatisfactory, or negative.

The units of law enforcement machinery consist of the police, the magistrate's court, the prosecuting attorney, grand juries, judges of the lower courts, petit juries and courts of appeal.

#### SOME BASAL DEFECTS IN LAW ENFORCEMENT

*Police Units.*—To facilitate the study of the problem of law enforcement, let us assume that what appears to be a crime has been committed. The person making the discovery reports the fact to the police—the first unit of the law enforcement system. The first function of the police is to investigate for the purpose of determining that a crime has been committed, and if so, by whom. Its second function is to apprehend the guilty person and deliver the prisoner and the evidence to the

proper judicial officer for a preliminary hearing. The effectiveness of the police unit can only be determined by the verdict and only when the other units of the system have functioned in practice as they are expected to function in theory.

The police unit in order to do its work effectively must possess certain qualifications. The first of these is intelligence backed up by training and experience. Otherwise, it will not be able to grasp the significance of the various elements of evidence, nor will it be able to give each element thereof its proper value, nor reach the correct valuation of the sum of these elements, producing proof.

In this country the method of selection of policemen is without doubt the least likely to secure the first and most necessary qualification. The generally adopted method of selection is political, physical and mental—at a ratio of one hundred to fifty to one. Nor is there much being done in the direction of intelligent training of men for this kind of service. Comparatively recently, some of the larger cities have started training schools, as have most of the state police forces in states where such organizations exist. But as a rule, in the smaller cities, the policeman is appointed, given a uniform, a badge, a billy and a gun, and then sent out with an older policeman to learn the limits of his beat.

Methods of organization narrow the field of advancement by promotion to such limits that very few intelligent and ambitious young men will favorably consider police service as a field for their life's work. This defect of organization is also responsible for there being very few competent executive police officials. It is remarkable that in a country where the benefits of special training and organization are so effectively demonstrated in our

commercial affairs, that they should be considered unnecessary in one of our most important public services.

The matter of apprehending a criminal after detection often requires not only trained intelligence but also organization and co-operation of the highest development. With our present-day means of rapid transit, it is possible for the criminal to place great distances between himself and the scene of the crime in a very short space of time. With police forces disconnected, each interested in its own problems, it is not surprising that frequently a great criminal can remain hidden and unmolested in the very shadow of a police station. The surprising thing is that so many are apprehended.

Also charge against the effectiveness of the police unit political interference with the performance of its duties and a lowering of the morale which results in the taking of bribes and a spiritless performance of duty.

Taking all of these conditions into consideration, we find the real reason why the police unit of our law enforcement system must bear a large share of the responsibility for failure in law enforcement.

*Magistrates.*—Let us suppose for the purpose of this examination of the subject that in this case of crime, the police have been successful and the case now passes on to the next unit—the magistrate or justice-of-the-peace.

It is the function of this unit to determine that the evidence is or is not sufficiently convincing to justify the arrest and the incarceration of the accused.

In Pennsylvania, and most of the states, this official is not required to be learned in the law, nor to have any other qualification than that he be sufficiently popular to receive a plurality at the polls; and yet failure on his



part to place the proper valuation on the evidence or to perform some other of his duties may partially or wholly nullify the activities of the police force, no matter how thoroughly it has performed its work.

*Prosecuting Attorney.*—Let us assume, however, that the case under consideration has passed successfully on to the next unit in order—the prosecuting attorney.

It is here that the indictment is prepared and the evidence marshalled in proper order and presented to both the grand and the petit juries. It is here placed in its proper order on the calendar. It is the prosecuting attorney who must examine and cross-examine the witnesses. Thus he must uncover errors, exaggerations, omissions, deceit and prejudice, to develop the facts concerning the case. Here again we find that a special fitness to perform the work at hand has little, if anything, to do with selection. A plurality at the polls is all that is required. Indeed, the office too frequently goes to young and inexperienced attorneys who have not yet built up a paying practice. The criminal, if he has sufficient money, can avail himself of the cleverest legal talent that will devote all of its time to the one case at hand, while often an inexperienced prosecuting attorney must prepare a large number of cases for each term of court. If he err, the case may be irrevocably lost, while if the criminal loses he may appeal and often does receive a new trial. Political expediency may, and all too frequently does, interfere with the success of the case. It is also responsible for unnecessary delays which result in minor details being forgotten by witnesses or the loss of evidence through death or disappearance of witnesses. Thus we find, through lack of ability, overwork, political expediency and dishonesty, another unit

that must bear its share of the responsibility for failure.

*Juries and Juror-Selection System.*—Next in order, our case comes to juries both grand and petit, and back of the juries is the juror-selection system. In many states, this consists of the commission that selects names of citizens and places them in a wheel or other mixing device and then some person who has been blindfolded draws out a sufficient number to fill the quota required. Here again, political or other improper motive frequently enters into the selection of names to be placed in the wheel. A juror is really a judge whose duty it is to weigh and give a valuation to the evidence produced by each side. He must frequently compare the statements of two or more witnesses whose testimony is directly opposed to each other. He must frequently listen to and weigh the testimony of experts in highly complicated and technical matters. In petit juries, one juror in error or prejudiced may upset the whole case and prevent justice being done. And yet in all my police experience, I have never known of a court where there was evidence of any special attempt having been made to choose jurors on account of intelligence, education or good character.

*The Judiciary.*—Our case having safely passed the juries and a verdict of "guilty" having been returned, it now goes to the next unit of the system—the judge. Here we have an official who in theory is impartial; yet at varying periods, in most states, he is required to stand for re-election and to be the subject of political favors. A dishonest judge may defeat justice in innumerable ways. He may grant continuances of a case with all the disastrous results of delay. He may err so that the defendant may secure a new trial. He may in some cases suspend or pass inadequate sentences. He may

in other instances grant paroles, and by these devices bring to naught all the efforts that have preceded.

It would naturally be supposed, in the event of conviction and adequate sentence, that justice would stand triumphant. But not so. It is here that the pardoning power, too frequently acting upon misinformation often supplied by well-meaning persons of narrow vision, nullifies all that has been accomplished.

In twenty years of police experience, I have seen justice fail in each unit that I have mentioned, and in every manner that I have mentioned—not once, but many times.

Respect for law is based upon its effectiveness in dispensing impartial justice. Except perhaps when modified by religion, man's instincts are all on the side of expediency. And most religious persons are religious on account of expediency; as soon as a thing becomes inexpedient, it is avoided. There is an abundance of evidence to prove that effective detection, apprehension, conviction and punishment does inhibit crime; and inhibition is in the same proportion as the conviction and punishment. This is Nature's way of enforcing her laws. If man's laws could be made as effective as the law of gravitation, this would be a very law-respecting nation.

#### REMEDIES

One who attempts to criticize should be prepared at least to suggest what appears to be a remedy.

The police unit of our law enforcement system is lacking in intelligence and organization and is hampered by

political control. Consolidation, removal of political influence, centralizing control, and special training are the remedies.

The consolidation of the police system with centralized control creates a field of service for advancement that would attract intelligent and ambitious young men into the service. Its removal from politics would strengthen the morale and discipline.

The establishment of training schools would have the same relative purpose in the police organization that Annapolis Naval Academy and the Newport Training Station have in the Navy.

Because I have felt that twenty years' experience in police service and a study of the systems of the United States and Europe have given me some authority to express an opinion as to the police system, I have done so quite freely, but inasmuch as I know so little of the obstacles, trials and conditions in the other units of law enforcement, it would be unbecoming as well as foolish for me to attempt to say how they should be constructed or improved, and therefore I will refrain from so doing. But I may say that the first and most important step in the direction of improvement is a thorough study of all of the parts and the system as a whole, and to that end there should be a commission created that would have the power and authority to collect the material for such a study.

The statistics collected by such a commission would not only provide material for study of the question, but would serve as a measure of the effectiveness of the various units and prevent many of the evils that now exist.

# The Prevention and Detection of Crime as Viewed by a Police Officer

By AUGUST VOLLMER

Chief of Police, Berkeley, California

**T**HERE is so much dissatisfaction with police methods and policemen in the United States that one might be pardoned for rushing to their defense with a few words of commendation. The policeman is denounced by the public, criticized by preachers, ridiculed in the movies, berated by the newspapers and unsupported by prosecuting officers and judges. He is shunned by the respectable, hated by criminals, deceived by everyone, kicked around like a football by brainless or crooked politicians, exposed to countless dangers and temptations, condemned when he enforces the law and dismissed if he doesn't. His home life is made unhappy by long hours of duty; he is forced to endure every conceivable form of hardship. He is supposed to possess the qualifications of a soldier, doctor, lawyer, diplomat and educator with remuneration less than that of the day laborer. But, despite these obstacles, he has achieved a fair measure of success in protecting the lives and property of citizens and preserving the integrity of this nation.

The wearing of a uniform does not change the man. Policemen are human and respond as do other individuals. When honest efforts are ridiculed; untiring labors unrewarded by kind words; zeal, enthusiasm, self-esteem, initiative and ambition crushed; integrity, moral courage and loyalty everlastingly questioned; small frailties glaringly exposed to the world and virtues never recognized, it would be a miracle if police morale was not affected.

Just a little more confidence, friendliness and willingness to assist by the public, pulpit and press would completely revolutionize police activities and materially contribute toward crime reduction. It is but fair to state that policemen are partially responsible for the public's critical attitude. Standing entirely alone ever since modern departments were organized, policemen have been self-sufficient and have remained apart from the people, instead of soliciting their assistance and co-operation. Even possessors of knowledge invaluable to them have been tabooed, because policemen hesitated to believe that outsiders, regardless of their scientific standing or ability, could shed any light upon the police problem.

Another outstanding and inglorious contributory is the childish jealousy existing between departments, between units of the same department and among individuals of the several units. This selfish, unforgivable attitude prevents the cohesion necessary for intelligent crime prevention and provides an opening for grafting politicians to obtain control of departments, thus preventing the police from functioning efficiently in the several communities.

Poor wages, crude and hasty methods of recruiting employes in most departments ultimately result disastrously, and undoubtedly have been a factor in creating mistrust. Unfit men without previous experience and insufficiently trained are assigned to duty. Many are willing workers and actually develop as rapidly as their experience and

intelligence permit. However, superior intelligence and training are required to successfully cope with the cunning and desperate criminals of to-day. Further, unusual moral stamina is essential to resist the innumerable temptations that constantly beset police officers in the performance of their duties.

#### CRIME CONTRIBUTIVES

Opinion prevails that there is a general let-down of morals throughout the nation and some people have actually believed that the police are responsible for this condition. Others, perhaps a little more intelligent, attribute the demoralization to conditions resulting from the late war, widespread use of automobiles, jazz and a variety of other causes. History reminds us, and biology teaches, that the situation may also be diagnosed as a symptom of national decadence. When offenses against the state are looked upon with indifference, when hardened criminals are treated with sentimental indulgence and when the physical, mental and moral structure of the people comprising a nation weakens, it behooves that country to recognize these symptoms of degeneracy before it is too late to apply remedial measures.

We are constantly told that statistics prove crime has enormously increased during the past decade. Since thoroughly reliable statistical data are absolutely unobtainable in this country, we are in no position to refute the statement. Moreover, every layman and pseudo-scientist knows exactly how many crimes are committed and what preventive measures are indicated, though experts who have devoted their lives to the study of criminology are as much perplexed concerning the extent and causes thereof as they have been since the time of Beccaria.

Economic factors have been stressed as crime contributives; some even insist that with the economic problem solved we would have no crime. Obviously, this is an unstable premise. Nevertheless, a close survey is convincing that the theory cannot be entirely discarded. Without doubt, intelligent immigration laws preventing undesirables from entering this country would be highly beneficial. Adjustment of the numerous difficulties existing between capital and labor would obviate some of our troubles. The nation would benefit immeasurably, were it possible to provide better living conditions for the masses, reducing dependency to a minimum. Unquestionably, unemployment will always be a crime factor, because every penniless unemployed individual is a potential offender, especially when hungry, cold and friendless.

But what about the numerous delinquents who are intellectually, temperamentally or volitionally warped to such an extent that they are unable to meet the demands imposed by modern society? What shall be said of the children begotten of feeble-minded, insane, epileptic and other degenerate persons? Should they not also be regarded as potential offenders? Why not make an effort to prevent such defectives from reproducing their kind? Preventing the socially unfit from multiplying and teaching children character fundamentals from earliest infancy, are vital to national welfare and would greatly reduce crime statistics.

Possibly we have over-regulated human conduct by enacting laws inhibiting every conceivable form of human behavior, whereas a few laws dealing with basic principles might serve our purpose better than the unenforceable, conglomerate mass of legislation that clutters the statute books. Laws, as a rule, are hastily read, poorly



digested and occasionally misinterpreted, even by the judiciary. Criminal laws and procedure need a complete overhauling and would undoubtedly be greatly improved if corrected to meet modern conditions.

#### LOOSE COGS IN LEGAL MACHINERY

We prate about equality before the law, but does it not make a difference whether one is rich or poor, influential or otherwise, when the heavy hand of the law falls upon an offender and the legal machinery is set in motion? Then follow interminable delays in important cases, unequitable distribution of fines and sentences, long drawn-out trials and often miscarriage and maladministration of justice. Such irregularities weaken the confidence of the people and shatter their ideals of government. Criminal trials must be expeditious and impartial, for whatever deterrence there may be in punishment lies in the fairness, certainty and rapidity with which punitive measures follow criminal acts. Postponements, lengthy, tiresome trials, toleration of outside influences, too liberal application of probation and parole breed contempt for law.

Equally responsible for law irreverence in this country are the numerous contemptible, dishonest, shyster lawyers who, when defending guilty criminals, encourage perjury, bribe witnesses, tamper with the jurors and occasionally befuddle them by attacking the character and testimony of witnesses and policemen appearing for the prosecution.

Magistrates frequently fail to make the right sort of impression upon first offenders. A delinquent, who believes that he can outwit the judge or prosecuting officers and that escape from punishment for his criminal acts is easy, is likely not only to continue his

criminal depredations, but encourage others to do likewise.

#### THE JUVENILE OFFENDER

Criminal ranks are largely recruited from among young boys. Murdering criminals recently encountered were between the ages of fifteen and eighteen and, sad to relate, children of respectable parents. Lured by advertised and imaginary wonders, adventurous adolescents leave their homes believing fortune awaits their arrival elsewhere. Without home restraints, friends or money, such unstable youngsters are led to moral destruction by sensational headlines and intimate details of crime published in the daily newspapers, cheap movies that glorify crime, vilify policemen and heroize criminals, also by unwholesome advice offered by crooks and idlers commonly found around loafing places or beating their way from city to city on brake beams.

There is a widespread belief among juveniles that they may commit any kind of crime and escape punishment. The necessity for conforming to prescribed rules of conduct is insufficiently impressed upon their minds, and they do not believe that punishment will certainly follow their neglect to conform. It may be expecting too much of schools, but it does appear reasonable that character training should go hand in hand with intellectual development. School authorities are giving character training serious consideration, but the public must support the movement. Knowledge without character is valueless to the individual when surrounded by demoralizing temptations. Many juveniles are educated, reside in good homes and are employed at a good wage. Despite these apparent advantages, they plunge headlong into criminal careers primarily because

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character training was neglected from infancy. There is need for parental schools in every community, conducted on the plan suggested by Mr. Fred C. Nelles of Whittier, California. When parents are unable, by reason of economic or other conditions, to furnish the proper home training and their offspring acquires delinquent tendencies, or where temptations tear the moral fabric or where bad habits of defective or neglected children are transmitted to others, the community and the child would profit were it possible to place these potential offenders in parental schools until they are taught how to adjust themselves in a normal environment.

#### MISDEMEANANTS

Misdemeanants, male and female, of the police court repeater type, have an aversion to hard labor. Industrial farms should be established to care for these offenders, where they would be compelled to work during the period of incarceration. The labor should be of a constructive nature and designed to rehabilitate the individual so that he may resume his place in the community in better physical, mental and moral condition. Prisoners when released from city or county jails would be less apt to lapse into a life of crime, were it possible to house them in a municipal home or farm until employment was found. While awaiting employment, their services could be utilized in municipal improvements. Undesirable foreigners found in this group should be promptly deported.

Misdemeanants are as numerous and as annoying to municipal police as swamp mosquitoes. They clog court machinery, fill jails and create the foundation on which the criminal underworld is built, to say nothing of consuming a large share of the police-men's time and attention.

#### THE DRUG PROBLEM

It is untrue that most criminals are drug users and that the use of drugs is more prevalent than in the past. Our information is at variance with the statement that every drug user is a criminal and that the habit is spreading at an alarming rate among children. The situation is serious enough without exaggerating it and means must be found to limit the use of narcotics for legitimate purposes. Difficulty in enforcing laws dealing with the drug problem is due to many causes, most important of which are the enormous profits made by those engaged in the business of selling drugs. Among other difficulties are legal technicalities, bribery of officials, political influence, perjured testimony, variety of obstacles encountered by the police in their efforts to apprehend and obtain evidence sufficient to convict agents and big dealers in drugs, and finally, the failure to jail the peddlers for long periods and permanently remove the addict who will always be a drug user. Arresting incurable addicts repeatedly, placing them on probation, then fining them, again imposing the usual thirty-day sentence or committing them to hospitals for a few months, is not only ineffectual, but a stupid procedure.

Wholesale manufacturers of drugs produce more narcotics than are needed for professional use. This over-production is exported to Canada and Mexico and later smuggled into this country. Governments should take over the manufacture and distribution of narcotics and limit production to legitimate requirements.

#### HOW THE PRESS COULD HELP

Police news should be intelligently handled by publishers of newspapers. With less space devoted to sensational headlines and intimate details of crime

omitted, the so-called crime waves would cease to exist. Liberties granted press representatives have rapidly degenerated into license. A resultant of unwise publicity is the false conception that every police organization is inefficient and that members thereof are corrupt or wholly incompetent. Sensational headlines featuring criminals and crime, supplemented by persistent criticism of policemen, create a desire among the simple-minded and potential offenders to follow in the footsteps of paper-made heroes and, further, to believe that law enforcement machinery is powerless.

According to newspaper men, the purpose of crime publicity is to ameliorate conditions in the community served by them, but continued harping upon police inefficiency acts as a boomerang and, instead of promoting effective police service, has actually contributed to criminality by stimulating disrespect for law and law-enforcing officials. A healthier co-operation between police and publishers is necessary, and while suppression of news is not advocated, information furnished reporters by the police should be written in a manner conducive to the suppression of crime.

#### PUBLIC CO-OPERATION

Closer co-operation between the public and police is also imperative. The police department is an instrument of the people, which should be intelligently used by them. Unwillingness of citizens to advise police officials concerning crime and vice within the city; their refusal to assist officers in investigations, frequently betraying them; dodging of duty as witnesses; the avoiding of jury service and failure to uphold policemen when serving as jurors, all react to the disadvantage of the community and give courage

and confidence to enemies of government.

Business concerns for their own protection, if for no other reason, can aid by a more active co-operation with the police. Banks, jewelry stores, in fact, all places likely to be attacked by burglars or hold-up men, will reduce theft hazards by installing modern alarm systems, and wherever possible, connecting them with the nearest police station. Pay-roll robberies, which occasionally result fatally for money messengers, would be completely wiped off the crime calendar if this careless method of transacting business was discontinued and the pay-check system instituted therefor. Transportation of large sums of money without adequate protection will always be a temptation to the weak-minded and criminal, because of the large returns and comparatively small risk involved.

#### PREVENTIVE POLICING

Preventive phases of policing a city are beginning to be emphasized by policemen, and this interesting function will engage the attention of more departments in the future. Arresting criminals and prosecuting them for their transgressions have not solved the crime problem—and never will—because policemen are here dealing with an unfortunate end product and there is little or nothing that they can do to remould the individual or correct vicious habits acquired during the formative period of criminals' lives.

Fewer arrests for minor offenses is another step in the right direction; especially is this rule being followed in cases of those who unintentionally commit unimportant infractions. Much better results are obtained by officers who effect a compliance with penal regulations without resorting to medieval strong-arm tactics. Victims

of injustice and unnecessary arrests are antagonized, with the result that they lose respect for police officials. Incidentally, the time thus consumed may be more profitably engaged in rounding up vicious and deliberate violators. Policemen now seek opportunities to spread the gospel of reverence for law in the home, school, church, or wherever they can form contacts with children. They try by example and precept to cultivate a sentiment of patriotism which serves to strengthen personal and social ideals sufficiently to enable these future citizens to resist importunities, suggestions and impulses to depart from paths of rectitude. A few departments have excellently trained officers who devote their entire time and attention to crime prevention. These officers, by their gentlemanly conduct and knowledge of their profession, encourage citizens to participate in police activities and also assist in campaigns designed to prevent crime. They also visit schools at regular intervals, assisting teachers to enlighten their classes in regard to the relation of the police to the community, and by these methods have, in a comparatively short period, changed the attitude of the public toward the peace guardians.

### THE MILLENNIUM!

Why are there so many murders, burglaries, robberies, automobile thefts and other serious crimes?

Why such men as Leopold, Loeb and Chapman?

Why the continuous procession of nearly 500,000 prisoners going in and out of jail every year?

Why the army of a million or more active crooks?

Why does crime cost America over ten billion dollars annually?

A thousand average citizens will probably give a thousand different answers to these questions. Few, indeed, if any, have an intelligent conception of crime and its causes. So much misinformation is circulated concerning this subject that people are thoroughly confused. Before we can hope to carry on a successful campaign against crime, the public must be thoroughly informed regarding the factors responsible for delinquency. Progress will be made when newspapers, preachers and the public discontinue their crime-guessing contest and "penny-wise and pound-foolish" policy, and assist in creating research bureaus for the purpose of getting scientific data concerning crime and criminals.

## Adequate and Proper Restrictions on Sale and Ownership of Firearms

By LYNN G. ADAMS

Superintendent of State Police of the Commonwealth of Pennsylvania

THE often repeated statement that pistols and revolvers are responsible for crime is open to question. It is said that in countries where ownership of these arms is prohibited murders are less frequent, but a study of statistics

will also show that in those countries there is a better general respect for all laws.

It is possible that in crimes of sudden impulse, as in the heat of passion, the presence or possession of a pistol may



suggest its use, but this reason might also be extended to rifles, shotguns, knives, hatchets, and baseball bats, as the following statistics tend to show:

Eighty homicide cases were investigated by the Pennsylvania State Police during the year 1925. Of these, twenty-six were unpremeditated. Twelve were committed with revolvers, two with shotguns, nine with blunt instruments, and three with knives. Of the fifty-four premeditated homicides, thirty were committed with revolvers, seven with other firearms and seventeen with blunt instruments, dynamite, poison, fire, and by undetermined methods.

When a person makes up his mind to kill another for revenge, avarice, or other motive, where premeditation exists, he casts about for a means most suited to the purpose. If a pistol is not available or expedient, he resorts to a rifle, a hammer, a hatchet, or to poison. Outlaws who rob banks, trains and paymasters very frequently use sawed-off shotguns and short rifles to force their victims to yield, while the modern highwaymen use a sand-bag or a piece of lead pipe to enforce their demands. Therefore, the outlawing of pistols and revolvers is not likely to decrease crimes of this character; in fact, it might tend to increase them, as the thugs would no longer have any cause to feel that their victims might be so armed.

Nevertheless, as a police measure, it is highly desirable that the sale and possession of firearms be regulated, and to that end there should be a law that requires registration of sales and possession and restricts ownership to adult citizens of good character, and also a law doubling the penalty for any crime committed while bearing arms. Such laws enacted in the states should be supplemented by the national government, prohibiting inter-state traffic in

revolvers and pistols except through regularly registered dealers. Any law that does not have national scope would be worse than useless because it would serve to disarm the law-abiding and leave the criminal armed, due to the fact that the criminal may secure pistols and revolvers through mail-order houses or by going to a neighboring state and bringing them in on the person, as is frequently done in New York State where a very stringent pistol and revolver law is in effect.

There are some difficulties that must be overcome before proper supervision of the use of and traffic in pistols and revolvers by law can be consummated. Not the least of these is Article II of the Constitution of the United States, which reads as follows: "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." The law must protect the rights of legitimate users. It must be so drawn that it will not leave the law-abiding defenseless, while leaving the criminal armed. The following is a copy of a bill submitted to the legislature of the Commonwealth of Pennsylvania, in 1923, that seems to meet the requirements of the situation. For some unknown reason, this bill was reported unfavorably in committee and was never acted upon by the legislature as a whole.

#### —COPY—

#### Legislature of Pennsylvania

File of the House of Representatives No. 187

#### AN ACT

Relating to pistols and revolvers regulating the sale possession and use thereof defining "pistol or revolver" imposing additional penalties for crimes committed while unlawfully armed prohibiting the ownership or possession of a pistol or revolver by any unnaturalized foreign-born person and by persons convicted of certain

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felonies providing for licenses to carry and licenses to sell pistols and revolvers prohibiting the disposing thereof to minors or to persons not entitled to own and possess the same and prescribing penalties

Section 1 Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met and it is hereby enacted by the authority of the same That DEFINITION "pistol or revolver" as used in this act shall mean any firearm with barrel less than twelve inches in length except antique firearms incapable of use as such

Section 2 COMMITTING CRIME WHEN ARMED Any person committing or attempting to commit a crime when armed with a pistol or revolver and having no permit to carry the same shall upon conviction thereof in addition to the punishment provided for the crime be sentenced to undergo imprisonment for not less than five years nor more than ten years and for a second or third offense to double and triple such penalty and for a fourth offense the person so convicted may be sentenced to imprisonment for life

Section 3 ALIENS AND CRIMINALS MUST NOT POSSESS ARMS No unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another shall own or have a pistol or revolver in his possession or under his control for a period of five years Any person violating the provisions of this section shall be guilty of a misdemeanor and on conviction be sentenced to pay a fine not exceeding five hundred dollars or to undergo imprisonment for a period not exceeding ten years or both

Section 4 CARRYING PISTOL CONCEALED No person shall carry a pistol or revolver concealed in any vehicle or upon his person except in his dwelling house or place of business without a license therefor as hereinafter provided Any person violating the provisions of this section shall be guilty of a misdemeanor and on conviction be sentenced to pay a fine not exceeding five hundred dollars or to undergo imprisonment for a period not exceeding five years or both

The provisions of this section shall not apply to marshals sheriffs policemen or other duly appointed peace officers nor to the regular and ordinary transportation of pistols or revolvers as merchandise nor to members of the Army Navy or Marine Corps of the United States or the National Guard when on duty or organizations by law authorized to purchase or receive such weapons from the United States or the State of Pennsylvania nor to duly authorized military or civil organizations when parading nor to the members thereof when at or going to or from their customary places of assembly

Section 5 ISSUE OF LICENSES TO CARRY Any judge of the Court of Common Pleas shall upon application of any person having a bona fide residence or place of business within the State of Pennsylvania or of any person having a bona fide residence or place of business within the United States and a permit to carry a firearm concealed upon his person issued by the authorities of any State or subdivision of the United States issue a license to such person to carry a pistol or revolver within the state of Pennsylvania for not more than one year from date of issue if it appears that the applicant has good reasons to fear an injury to his person or property or for any other proper purpose and that he is a suitable person to be so licensed The license shall be in triplicate in form to be prescribed by the Superintendent of the Department of State Police and shall bear the name address description and signature of the licensee and the reason given for desiring a license The original thereof shall be delivered to the licensee the duplicate shall within seven days be sent by registered mail to the Superintendent of the Department of State Police and the triplicate shall be preserved for six years by the judge of the Common Pleas Court issuing the same

Section 6 DEALERS TO BE LICENSED Any person who sells advertises or exposes for sale or has in his possession with intent to sell pistols or revolvers without being licensed as hereinafter provided shall be guilty of a misdemeanor and on conviction shall be

sentenced to pay a fine not exceeding five hundred dollars or to undergo imprisonment for a period not exceeding five years or both

**Section 7 DEALERS' LICENSES BY WHOM GRANTED AND CONDITIONS THEREOF** The Superintendent of the Department of State Police may grant licenses and may prescribe the form thereof effective for not more than one year from date of issue permitting the licensee to sell pistols and revolvers at retail subject to the following conditions

1 The business shall be carried on only in the building designated in the license

2 The license or a copy thereof certified by the issuing authority shall be displayed on the premises where it can easily be read

3 No pistol or revolver imitation thereof or placard advertising the sale thereof shall be displayed in any part of said premises where it can readily be seen from the outside

#### **Section 8 SELLING TO MINORS**

Any person or persons who shall sell barter hire lend or give any pistol or revolver to any minor under the age of twenty-one years shall be guilty of a misdemeanor and shall upon conviction thereof be sentenced to pay a fine not more than one hundred dollars to undergo imprisonment for a period not exceeding three months or both

**Section 9 SALES REGULATED** No person shall sell deliver or otherwise transfer a pistol or revolver to a person who he has reasonable cause to believe either is an unnaturalized foreign-born person or has been convicted of a felony against the person or property of another No person shall deliver a pistol or revolver on the day of the application for the purchase thereof nor unless when delivered said pistol or revolver is unloaded and securely wrapped Before a delivery is made the purchaser shall sign in duplicate and deliver to the seller a statement containing his full name address and nationality the date of sale the caliber make model and manufacturer's number of the weapon The seller shall within seven days sign and forward by registered mail to the Superintendent of the Department of State Police one copy thereof and shall retain the other copy for six

years This section shall not apply to sales at wholesale Where neither party to the transaction holds a dealer's license no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him Any person violating any of the provisions of this section shall be guilty of a misdemeanor and on conviction be sentenced to pay a fine not exceeding five hundred dollars or to undergo imprisonment for a period not exceeding five years or both

**Section 10 PENALTY FOR FALSE INFORMATION** If any person in purchasing or otherwise securing delivery of a pistol or revolver shall give false information or offer false evidence of his identity he shall be guilty of a misdemeanor and on conviction shall be sentenced to pay a fine not exceeding five hundred dollars or to undergo imprisonment for a period not exceeding ten years or both

**Section 11 ALTERATION OF IDENTIFYING MARKS PROHIBITED** No person shall change alter remove or obliterate the name of the maker model manufacturer's number or other mark of identification on any pistol or revolver Possession of any such firearms upon which the same have been changed altered removed or obliterated shall be presumptive evidence that such possessor has changed altered removed or obliterated the same Violations of this section shall be guilty of a misdemeanor and on conviction shall be sentenced to pay a fine not exceeding five hundred dollars or to undergo imprisonment for a period not exceeding five years

**Section 12 CONFISCATION REVOCATION OF LICENSES AND PERMITS** In all cases of violations of any of the provisions of this act all pistols or revolvers involved shall be confiscated and destroyed If any such violation is by a person holding a license or permit under the provisions of this act such license or permit shall be revoked

**Section 13 CONSTITUTIONALITY** The provisions of this act shall be servable and if any of its provisions shall be held to be unconstitutional the decision of the court shall not affect the validity of the

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remaining provisions of this act It is hereby declared as a legislative intent that this act would have been adopted by the General Assembly had such unconstitutional provision not been included therein

Section 14 All acts and parts of acts inconsistent herewith are hereby repealed

.....  
Speaker of the House of Representatives

.....  
President pro tempore of the Senate

Approved—The \_\_\_\_\_ day of \_\_\_\_\_  
A.D. 1923

—COPY—

## Environmental Conditions and Crime

By JOHN L. ELLIOTT AND MARK A. McCLOSKEY

Of the Hudson Guild, New York City

THE most familiar classification of criminals assigns them either to the group of occasional or of habitual wrong doers. We may look at the causes of crime in the same way and say that they are temporary or habitual. The recent increase in crime is due in part to temporary situations that will be met, it is hoped, in the not distant future. On the other hand, part of it is due to the failure of certain fundamental institutions of society, and this failure indicates defects in fundamental structure which in some cases are of a nature so serious that a long time is bound to elapse before they can be corrected.

The first group, the temporary causes, are to be found wherever great changes are taking place in which the ordinary life and ways of the community have been altered. Crime invariably follows in the wake of war. Although we believe that prohibition has produced more good than it has harm, nevertheless it is to-day one of the chief causes of law-breaking. In addition to these instances, a long list of cities and communities could be made in which some unusual occurrence, like an earthquake, a great fire, a sudden change in the economic situation, has been followed by a crime wave. After a time, although the period may be

one of years, a readjustment is made to meet the new situation or to counteract the effects of the catastrophe.

### WHEN SOCIETY HAS FAILED

But when the basic social institutions do not work as they should, they are the cause of constant maladjustments which furnish a permanent source of failure and crime. It is with this second and more important group that this paper deals, especially with those institutions whose failure leads to juvenile crime.

The group life that most affects children and young people circles around the family, sometimes the church, the school, the play centers and the job. Out of these groups, when they are working and functioning as they should, will come very few—if any—criminals, but when they are not performing their function they send out a steady stream of youngsters to be chased and arrested by the police and later housed in reformatories, prisons and penitentiaries, and in extreme cases they find their way to the death house and execution.

When one speaks of fundamental institutions like the home and the school, it is impossible to reduce their formative and creative outcome to a formula or to assign a single purpose



to each of them, and yet there are certain distinct functions which each must render. It is difficult, for instance, to give an all-embracing definition of a good home. Good homes are found among the rich, among the poor and in the middle class; in the tenements and on Fifth Avenue; in every race, religion and nationality; and all of them differ in some important respects. Yet in each good home there is perhaps this special function performed. With the aid and under the influence of affection, the individual becomes integrated in the lives of those about him and has for them a sense of responsibility. In the good school the child receives and is aware of an enhancement of his powers, physical and social as well as mental. In the playground the natural and almost universal demand for adventure and romance and friendship is met. Unless there comes into the life of the young worker in industry the sense that he is acquiring the means of establishing himself in the world, he will not be satisfied.

The point put forward in this paper is that the environmental conditions of crime have to do in no small measure with the failure of the fundamental institutions of society to perform their functions. Perhaps this best can be illustrated by examples.

#### RESULTS OF WRONG ENVIRONMENT

Georgie Downich is thirteen years old. His parents are Polish. His father after a short prison term deserted the family and has not been at home in five years. Georgie lives with his mother, his two sisters and a brother in three rooms in the last frame house in our neighborhood. The family income is derived from two Polish table boarders and home work which consists of putting sponges on the ends of wires for blacking bottles. Cooking,

washing and sewing for seven, plus the making of thousands of shoe blacking corks, leave Mrs. Downich little time for considering Georgie's problems, even if she were able to cope with them and had a conception of responsibility other than feeding, clothing and sending him to school. Georgie is considered a good boy as long as he gets coal and wood for the home, helps with the corks, and above all keeps out of trouble.

At school Georgie was in a class of sixty and when a family visitor called to talk with the teacher about the boys' work, the children were instructed to put their hands over their heads in order that there might be as little interruption as possible while the teacher talked with the visitor. Georgie was not the boy to hold his hands over his head for long, and a transfer was finally secured to a public school with smaller classes. The principal of this school had been in the system thirty years and proudly offered her philosophy of education in a nutshell. "If they are good, leave them alone. If they are bad an eighteen-inch rule laid to the calf of the leg is the best discipline."

In Georgie's particular case the threatened solution of the problem was to send him to a school for delinquents or to deport Mrs. Downich. Georgie, whose attendance at school was always intermittent, finally gave up altogether and joined an energetic group with a background much like his own, who had taken over an old hut in a nearby railroad yard which they equipped with furniture collected from various cellars in the neighborhood. The youngsters adopted names taken from the comic strips in the tabloid papers and the *Police Gazette* and their discussion of these publications was not in the nature of literary criticism. It was easy to steal bottles

of milk from the trains coming into the railroad yard, and occasional forays against trucks carrying live poultry were very thrilling and lucrative. Now and then a ham from a provision wagon was acceptable alike to Georgie's mother and to other mothers of the small coterie, provided too many neighbors did not know about it and the police did not interfere. Christmas trees from the railroad yard in the holiday season were peddled by the boys and no one seemed to think it wrong. In the summer longshoremen occasionally let a stalk of bananas go overboard in order to see the little gang dive and swim for them. Store-keepers willingly bought the green bananas for a few cents without a qualm of conscience.

It was a grand life for Georgie until the truant officer and the railroad detective descended on him. His mother had been having trouble with him of late, the school wanted him off the register because the absentee record was the worst in the city, the railroad detective wanted a record, and the company an example, so Georgie was scheduled for the reform school, where undoubtedly he would receive post-graduate instruction in the elementary processes he had learned on the street.

This history of one boy reveals most of the elements involved in the making of a criminal: an overworked mother, a disorganized family, speaking a foreign language, with moral standards which tolerated pilfering, partly out of ignorance and partly because it helped out a bad economic situation; schools which have stood adamant against the invasion of the new ideas of educational theory, crowded classes, overworked, badly-trained teachers, worn-out equipment, making a farce of education. This boy with imagination and a strong manipulative sense got none of the adventure or experimenta-

tion, satisfaction or sympathy, that should have come from his work at school.

The average municipal playground facilities and recreation program are pathetically inadequate and uninspired. An unattractive open space and a few ramshackle pieces of equipment offer no competition to playing on the water front, flying pigeons on the roof, hitching on trucks, and hanging around the railroad station. Everyone has come across the small boy, no bigger than a suitcase, who offers to carry yours from the station to the cars and later shoots crap with the proceeds in any one of the nooks and corners about the railroad station. You have seen the boy who dances the Charleston in front of the theatre during the intermission while his friend passes the hat among the crowd. These sophisticated youngsters have found home unbearable, school a monotonous bore and have sought their recreation where it is most interesting.

Joseph Sabin is eighteen years old. He feeds tobacco and paper to a machine that turns out millions of cigarettes a week, for which he receives twenty-one dollars. His function of handmaid to the machine requires nothing in the way of either physical or mental exercise. He serves that machine only that he may feed and clothe himself and enjoy his leisure.

Joseph has three sisters and two brothers. Three of the children go to different schools and the three working members of the family labor in different places. In their small kitchen they eat only three at a time because of the lack of room and the various working hours. The older members of the family associate with separate groups, seek their recreation in different places in different ways, go to different masses on Sunday. Their only contact is when they pile two or three into a bed

at different hours during the night, and as their mother passes on the information gotten from one to the others at meal time. They present a solid front only at christenings, marriages and burials and on a few major holidays. The consideration of problems, planning, and recreation with the family as a unit is nil. The mother carries the burdens and worries alone. If money is needed each one is nagged into giving a few dollars more a week. Her vocation is more important and requires more skill than that of any other member of the family, but she, as most working class mothers, is untrained.

Joe has been hanging out with a pretty rough gang on the street corner. One night a taxi driver left his car at the curb and went into a restaurant. Joe is not a quitter so he jumps into the car when some one suggests a joy ride. This is his first experience of the kind but will not be his last. It might have been his last but fortunately, or unfortunately, the boys are caught deserting the car. Joe is brought to the magistrate's court and placed under bail. Mrs. Sabin gets her hard earned savings from under the mattress and pays an extortionate sum for a bail bond. The father pleads with the district leader who appears in court. The bail broker uses his influence also. The sisters are ashamed and try to hide the disgrace.

Joe has lost his job but he has become a person of importance with those among whom he loafs. While waiting for trial he spends his time in the pool room and when the formality of the trial is over he continues to spend his time there. He never did like his job. His mother says he is unfortunate and keeps him in spending money. The once insignificant Joe, the tender of a cigarette machine, has gained

notoriety, has learned to drive a car and to elude the police so that he goes on many joy rides. He is called by respectable people a confirmed loafer.

The social resources of Joe's family were unequal to the problem before them. A hundred years before they would have of necessity lived and worked co-operatively. Joe himself had taken the first job that offered when he got out of school. What he never got in school was the very thing he needed most—personal resources for living and recreation. The so-called cultural and avocational pursuits were entirely neglected. Education for a nation of machine tenders and holders of monotonous jobs must be reconstructed so that holders of such jobs will find resources in themselves and in the community that will enable them to live decently and with some measure of opportunity for amusement.

Eddy Brown, the oldest in a family of seven, works in a broker's office where one mahogany desk and two mahogany chairs are the sole articles of furniture in a room twice as large as the room in which Eddy sleeps at night with three brothers. He listens all day to details of money won and lost on the stock exchange, deals in large figures, and knows that on his twenty dollars a week and with his meagre ability he will never be more than a petty clerk. He does not love his position with the firm and he does hate sleeping with three others, yelling at a deaf father and sitting at a messy table presided over by a fat slovenly mother.

It is easy to take a few dollars at a time from the stamp money. It may be the means ultimately, if he can get away with it long enough, to one of those homes on Long Island that are so attractively set forth on page after page of the advertising section of the Sunday newspaper. He really loves

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his mother and feels that she might be different, and living might be different, if they had a more decent place to live in. He spends not one cent of the money he takes, keeps it all in the savings bank, and when caught is able to return the entire sum to his employer.

Of course Eddy should never have been in a broker's office, but that was accidental. The occupations of most young people are accidental. Good vocational guidance might have helped him to get the right kind of a job. If he had had the right kind of a job he might have been more satisfied with his existence. He at least would not be subjected all his working hours to this constant talk of speculation. How can one save on two dollars a week spending money, out of which must come shines, hair cuts and so forth. The deaf father, the slovenly mother, provide no sympathy or understanding of the problem. Five years as a high-class office boy provides training for nothing else. What is there in Eddy's situation that can help him solve the problem? Nothing.

#### THE SOLUTION

The children in an ordinary tenement house family often begin life with a heavy handicap. Ordinarily the rooms are terribly overcrowded. Desertion, non-support, irregularity of employment, and sickness, all add their elements to an already bad situation. Many things contribute to lower and moral tone of the family. Often a decent moral tone has never been built up. There is little or no conception on the part of the parents of the desires and ambitions of children. If teachers were interested, parents' and teachers' associations might in

some measure solve the problem, but the average teacher is either ignorant of the new possibilities or too overworked to be able to give any time to them. The work of changing such fundamentally bad conditions must be fought all along an extended line. Better schools where attention is given to the specific needs of children, better trained teachers able to cope with simple mental and nervous problems, curricula providing preparation for family life and avocational pursuits, vocational guidance, behavior clinics, decent housing, comprehensive recreational programs to include all ages, playgrounds with able play leaders, mothers properly trained for their function as home-makers, all will contribute to a better community life which would decrease environmental causes of delinquency.

These suggestions for a program that will lessen crime do not indicate any ready made formula whose application will work miracles. No increase in the police force, no use of the night stick, no reform prison systems, devoutly as better prisons and reformatory systems should be hoped for and worked for, can meet the situation. Only by social statesmanship that will give the mothers and fathers in their homes a better chance to perform their function, only by better schools and playgrounds conducted in a way really to capture the interests, energies and capacities of the children, only by a kind of industry that will permit the worker to have an adequate amount of assurance for his future and an opportunity to exercise his mind, ambitions and natural instincts, can the environmental conditions that make for crime be adequately and permanently met.



## Drug Addiction and Crime

By SARA GRAHAM-MULHALL

President, Narcotic Drug Control League; formerly Deputy Commissioner, New York State Narcotic Drug Control

**T**HE world menace of narcotic drugs need not be restated in this volume. World conferences, world treaties, world follow-up toward enforcement, like American party pledges and Federal legislation, amply testify to a danger which no one denies. Two years ago, one might safely have written, "No one publicly belittles this danger." Unfortunately that cannot be written today. So pronounced is the current tendency to pooh-pooh dangers which only two years ago terrorized the whole civilized world into renewed action against drug addiction, that Number One of "Ten Basic Facts about Drug Addiction and Preventable Crime" is this waxing campaign to belittle our use of narcotic drugs and its relation to crime.

To our country, 35 per cent of whose 9000 Federal prisoners last year were traffickers in drug addiction, we detected 10,426 violations last year, and our newspapers daily describe Federal and local raids upon stores of bootleg drugs, a committee of state health officers has just reported:

"While drug addiction is still serious, it is not as bad as represented; there are only about 100,000 drug addicts in the United States; the number of addicts is decreasing; fewer addicts are being imprisoned for crime; drugs for addiction are no longer easily obtainable; physicians and druggists are, like federal, state and local authorities, doing what is possible to prevent drug addiction; some of the obstacles to international limiting of the production and manufacture of narcotic drugs to the actual medical requirements are almost insuperable."

Such talk from state health officers is untrue to facts, and most encouraging to law violators. Physicians and druggists are doing nowhere near "what is possible" to prevent drug addiction, nor are Federal, state and local authorities—yet. Drugs are still easily enough obtainable so that drug addiction continues a menace; a New York State prison commission has recently reported that drugs were "being bought almost as easily as chewing gum." Obstacles to international limitation upon producing narcotic drugs are so superable that Persia, one of our western world's chief producers, is officially seeking crop substitutes for the demon flower, and only last February India's own congress asked that the export of smoking opium be stopped.

As to the "only 110,000 addicts," the Federal enforcement unit, while belittling the extent of addiction, also says "the large quantities of narcotic drugs sold and used illegally in recent years are due to lack of sufficient narcotic officers at ports." Last year 5469 illicit drug traffickers were convicted by Federal authorities and 28,000 ounces of contraband drug were confiscated. These convicted traffickers, only a minority of all illicit traffickers, would need more than the belittled estimate of 110,000 addict customers to warrant their business and moral risks!

(2) No one knows how many addicts there are in our country and no one is scientifically trying to find out. Present official estimating grossly understates

addiction by omitting bootleg drugs and understating recorded addicts. It acts like a narcotic drug upon government efforts to detect and stamp out addiction and the bootleg traffic. "It lulls the public to sleep," as two high officials recently declared. In June, 1919, a special committee of the U. S. Treasury estimated addicts at probably above 1,000,000. To-day Treasury estimates stop at 110,000, and say there never could have been over 264,000 addicts here, because *legitimately entered drugs would never have sustained more!* Between these two official estimates came the humiliation of America's official pride at the World Opium Conference of 1924, when Britain taunted us with holding the Christian World's record of opium consumption. Can our present American statistics of addiction have been affected by our self-shielding international diplomacy?

(3) No one knows scientifically the relation between drug addiction and crime and no one is trying to find out on a scale large enough to justify current belittling conclusions. Prison records are admittedly scant and confusing. Prison methods—Federal, state and local—have not discovered all addict prisoners. They have not even stopped trafficking among prisoners. Studies of case records for origins of crime have been too few and too limited. The handful of personal records thus far federally analyzed (150) prove little, except that addicts are imaginative romancers. The U. S. Surgeon General, associated in the Treasury with the enforcement unit, says: "Narcotics do not arouse criminal impulses," which makes us wonder why we have all these anti-narcotic laws, until we finish his sentence; "they do, however, tend by their devastating moral and physical influence to convert certain persons into criminals." Until psychologists

displaced police officers as interpreters of addiction in its relation to crime, the evidence that addiction fosters crime was acceptable enough to prompt world concern and world action. There are enough prisoners and prison doctors and clerks to learn wholesale truth about drug addicts and crime.

The current celebrated Whittemore murder trial is advertising criminals' use of drugs. One arrested man confesses sharing in loot and spending \$6000 of \$13000 for drugs. Other unwilling witnesses are known to be addicts.

(4) The criminal addict is an incurable criminal so long as he is an uncured addict. Whether he became an addict because a criminal, or became a criminal because addiction prepared him for crime, experience shows that there is no hope of eradicating his criminality until he is freed of drug addiction, which means until he can no longer obtain the drug.

(5) Every addict, no matter how cultivated, is under our laws a potential criminal, because violation of law bulks small compared with the pain of going without the drug. Treasury officials now claim that addiction does not excite to crime *unless* the addict's supply of drugs is cut off. They admit that when deprived of drugs addicts will commit the crime of getting drugs illicitly and, if need be, will commit or aid and abet other crimes to secure drugs. To a layman, who knows that all legitimate drug for addiction is now cut off, this official admission confirms the assertion that addiction is potential criminality.

(6) Crime due to drugs and desire to profit from bootlegging them has allies in high places among intellectual addicts like editors, judges, teachers, writers, physicians, druggists and law-makers. These intellectual links in the accursed chain of drug addiction

assiduously block true statements and promote anesthetizing estimates about the volume and menace of drug addiction, and its relation to crime.

(7) In spite of Federal laws, America is still infested with criminal traffickers in drugs that breed addiction and prepare for crime. We still have smuggling, bootlegging, sneak-peddling, men lurking just outside penal institutions and hospitals to lure the former addict back to his degradation, trafficking physicians and trafficking druggists. This criminality, which panders to an appetite and to a dread of pain more to be feared than the penalty for crime, is hugely profitable.

(8) Our Federal laws are not yet adequate, even if enforced, to root out drug addiction. No physician may now, legally, create drug addicts while exercising his professional judgment. The Federal law calls such practice a crime. Unfortunately, however, both the Federal law and the enforcement unit permit any heroin that was "on the shelves" of manufacturers or druggists in June, 1924, to be sold, and any opium then in store to be made into heroin, admittedly worst of all drugs and excuseless for medical purposes. By official oversight, perhaps by unofficial design, the law of June 7, 1924, to ban heroin forever, provided only against importing opium for making heroin. Instead of demanding supplementary legislation the enforcement unit has accepted the deficient law, and heroin is still being sold and prescribed "until the present (inexhaustible) supply is exhausted."

(9) Our still inadequate Federal laws against drug addiction are not yet adequately enforced. For enforcing them there are now 300 field agents on a budget of \$1,250,000. Never yet has the full appropriation been spent. Three states lack independent drug laws, among them New York, and

other states which have strongly worded laws have little or no provision for enforcing them. Only one state, Pennsylvania, pretends to be scrutinizing drug prescriptions, to make sure that doses progressively decrease. Federal failure to scrutinize is confessed by Federal guessing about the prevalence of addiction instead of counting official records and by the small field force for enforcement, especially at ports—only twenty-nine in the New York district. That district, the chief center for smuggling, with 10 per cent of the population and 10.4 per cent of those registered for legal sale of narcotic drugs, reports 6.4 per cent of the country's violations and convictions, 9.6 per cent enforcement costs and but 2.3 per cent of drugs seized. Moreover, New York had fewer sentences the last two years than in 1923, and its fines fell off 55 per cent last year.

(10) The constitutionality of the Harrison Narcotic Drug Act of 1914, our Magna Charta of protection against addiction, is now being questioned in the U. S. Supreme Court.<sup>1</sup> A decision may come before this article is published. If the act is upheld new heart will be given to law enforcement. If it is found unconstitutional, the fight against addiction must begin all over again. The shock of the conflict, whatever the outcome, may open our public and official eyes to the danger of belittling the crime that inevitably results from the still conceded misery and degradation of drug addiction.

<sup>1</sup>Justice McReynolds in an aside, in his opinion in *U. S. vs. Doherty*, decided January 4, this year, says: "The decision declaring the act constitutional may have to be reviewed if the question is properly presented. That it will be so presented, we can trust to the many interested in free sale or free use of narcotics."

Counsel for Clement Gunn of Missouri (convicted) is asking that the drug law be declared unconstitutional.

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Prevention of soil and seed for crime is crime prevention of the most productive sort. The ten basic facts above enumerated point the way to preventing all *crime of and from addiction* by making addiction impossible. Safety lies in annihilating drugs for addiction, not in philosophical distinctions as to whether the egg preceded or followed the chicken. Gratitude, unstinted, should go up for the increasing number of physicians who will have no part in creating or continuing drug addiction. Gratitude should be shouted from housetops that manufactured nar-

cotics may no longer be legally imported. But gratitude should not blind us to the need for that eternal vigilance which is the price of liberty, or to the knowledge that profiteering in illicit drugs will keep on creating addiction and drugging the arms of enforcement, unless America remembers her earlier horror and determination. Belittling actual drug addiction will not reduce crime. Learning and broadcasting the truth, enforcing the law and securing adequate law will reduce crime by preventing addiction.

## Immigration and Crime

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THE aboriginal inhabitants of this country, the Indians, might well claim that crime in America is almost wholly due to immigration. Only three hundred years ago the movement from Europe started and now the Indian viewing the wrecks of his culture has the sad consolation of knowing that:

Our names are writ upon your waters,  
Ye cannot wash them out.

With wider vision than the Indian, the white man of England had hardly secured a boarding place when he began to ask how the other peoples of the world might be made to serve him. At first it seemed wise to invite others to come and till the inexhaustible acres. So, in his blindness of final results, he urged the men of other races to escape the evils of Europe and help construct a country in which poverty and crime would have no place and tyrants would be unknown. The invitation was accepted. Hardly had the

vanguard arrived when it became evident that they were bringing new traits and customs with them and the older inhabitants began to wonder what the effect would be. The evils of immigration as well as the benefits became apparent.

### THE ELEMENT OF PREJUDICE

The setting has changed. America no longer looks on itself as a refuge for the oppressed. Subsidies are no longer granted to breweries. It is assumed that the motives leading the natives of more distant countries to migrate are different from those which influenced the early settlers. The bars are up. We have sought evidence to justify our emotional reaction against strangers. It is discovered that criminals have entered the country as well as missionaries and we have sought to understand, unconsciously hoping that our study would show that the later arrivals were more likely to be criminals than were their predecessors. No



country, of course, is desirous of increasing its criminal population. Formerly we made a distinction between political offenders and others, but we seem to have abandoned the distinction. I am but suggesting that most of our attention to crime among immigrants has not been due to a desire to understand crime. Our judgments have been colored by our prejudices. We judge our own group by its best men and women, but we are prone to consider as typical the lowest of other races. That which we try to explain as due to peculiar individual circumstances in our society is explained as a racial trait if found elsewhere. I am not suggesting that this is the result of deliberate dishonesty on the part of the interpreter. Far from it. But it is an element in the present situation which the student dare not ignore.

Emerson once defined a genius as "a man who can generalize from a single illustration." Nearly every man then is a genius. If I am defrauded by a Jew then all Jews are tricky in matters financial. If I hear that a Negro has raped a white woman then all Negroes are under suspicion. If an Italian commits murder then all strange Italians are to be feared. Thus arise our prejudices, and evidence to the contrary is neither sought nor welcomed. Yet my

circle of acquaintances must be very narrow if I do not know Jews whose word is as good as their bonds, Negroes who are above suspicion and Italians whose murders will be of the stage variety. If, then, we may for a time disregard our personal bias and remember that we are discussing crime and not our immigration policy, what evidence can be found as to the facts in the case?

#### POPULATION GROWTH AND CRIME

Perhaps the first thing to do is to try to ascertain whether there is any relation between the immigrant tide, taken as a whole, and the record of crime in a state like New York.

It appears from this table that the relative rate of criminality in 1890 was the same as in 1840, notwithstanding the change in the racial composition of the population of the state. In the year 1900 there was just one more conviction for every 100,000 of the population than in 1890 and in 1905 four convictions per 100,000 in excess of 1900.<sup>1</sup>

Inasmuch as the convictions for any given year may be abnormally high or low, Mr. Hourwich has taken the average number of convictions per year, decade by decade, and compared them

<sup>1</sup> Hourwich, "Immigration and Crime." *Am. Journ. Soc.*, Jan., 1912.

CONVICTIONS IN COURTS OF RECORD, STATE OF NEW YORK, 1830-1905

| Census Year | Convictions | Population | Convictions per 100,000 Population |
|-------------|-------------|------------|------------------------------------|
| 1830 .....  | 1,059       | 1,919,000  | 55                                 |
| 1840 .....  | 1,343       | 2,429,000  | 56                                 |
| 1850 .....  | 1,552       | 3,087,000  | 50                                 |
| 1860 .....  | 1,601       | 3,881,000  | 41                                 |
| 1870 .....  | 2,151       | 4,383,000  | 49                                 |
| 1880 .....  | 2,847       | 5,083,000  | 56                                 |
| 1890 .....  | 3,364       | 5,998,000  | 56                                 |
| 1900 .....  | 4,116       | 7,269,000  | 57                                 |
| 1910 .....  | 4,942       | 8,067,000  | 61                                 |

with the increase of population during the same period. Some very interesting results are shown:

the courts. These granted, there appears to be no fixed relation between the growth of population, much of

AVERAGE ANNUAL NUMBER OF CONVICTIONS COMPARED WITH ANNUAL AVERAGE INCREASE OF POPULATION, CENSUS TO CENSUS, 1831-1905

| Period         | Number of Convictions |   | Annual Average Population Increase per 1,000 |
|----------------|-----------------------|---|--|
|                | Annual Average        | Percentage Increase (+) or Decrease (-) |  |
| 1831-1840..... | 1,057                 | .....                                   | .....  |
| 1841-1850..... | 1,474                 | +39.5                                   | 27.5   |
| 1851-1860..... | 1,734                 | +17.7                                   | 25.  |
| 1861-1870..... | 2,221                 | +28.1                                   | 13.  |
| 1871-1880..... | 3,152                 | +41.9                                   | 16.  |
| 1881-1890..... | 2,900                 | - 8.0                                   | 18.  |
| 1891-1900..... | 3,734                 | +28.8                                   | 21.2   |
| 1901-1905..... | 4,501                 | +20.3                                   | 22.  |

It is worthy of note that in 1861-1870 the number of convictions was increasing faster than during the preceding decade, 1851-1860, while the growth of population was slowing down. On the contrary, a comparison of the decades 1881-1890 and 1871-1880 shows that the number of convictions fell off, while the population was increasing faster; the same tendency was manifest during the period 1901-1905, as compared with 1891-1900.

From 1850 to 1860 the foreign-born population of New York increased relatively to the total population of the state, but the annual average number of convictions during the decade 1851-1860 fell below the average for 1841-1850. From 1870 to 1880 the number of foreign-born decreased relatively to the total population; at the same time the annual rate of convictions increased as compared with the preceding decade. From 1880 to 1890 this movement was reversed; the foreign-born population went up and the rate of criminality went down. Again from 1890 to 1900 the percentage of foreign-born slightly decreased, and the rate of criminality showed a small increase.

We have to assume both the general accuracy of the figures given and also relative continuity in the efficiency of

which is due to immigration, and the phenomenon of crime. The sceptic might add, perhaps, that the immigrants had not been here long enough to show the effect of contact with America and were still in the thrall of the European habit of law obedience. This argument we shall encounter again.

#### CRIME TENDENCY AMONG IMMIGRANTS

The next topic on which information is needed is the amount of crime among immigrants as compared with natives. The most available source of such information is the report made to the Congressional Committee on Immigration by Dr. Harry H. Laughlin, of the Eugenics Record Office of the Carnegie Institution, which was published under the title, *Analysis of America's Modern Melting Pot* (1923). A number of criticisms were made of the findings, the most important, perhaps, being that of Dr. H. S. Jennings in *The Survey*, December 15, 1923. Dr. Laughlin sought to answer these criticisms in a statement before the Committee of Immigration and Natu-

ralization on March 8, 1924.<sup>2</sup> From the last the following facts are gleaned.

Dr. Laughlin secured from as many of the penal institutions of the country as possible a statement of the birth and parentage of their inmates. These returns were tabulated and compared with the census of 1910. It was assumed that it would be normal for each

<sup>2</sup>68 Congress. Serial 5-A.

group to furnish the same percentage of inmates to the institutions that it furnished to the total population. This number then is its quota. Three methods of analysis are used. In (A) the whole population is the standard. In (B) the standard is the whole population over 20 years of age. In (C) the standard is the same as B, with the Negroes omitted.

POPULATION OF PENAL INSTITUTIONS IN THE U. S.

| Nativity Group                           | Share in Population of U. S. in 1910 | Institutional Quotas      |                        | Institutional Quotas             |                              | Quota Fulfillments              |                    |
|--|--------------------------------------|---------------------------|------------------------|----------------------------------|------------------------------|---------------------------------|--------------------|
|  |                                      | (A)<br>Per cent allotment | (B)<br>Number expected | (A)<br>Number found distribution | (B)<br>Per cent distribution | (A)<br>By numbers plus or minus | (B)<br>By per cent |
| Native white, both parents native-born:  |                                      |                           |                        |                                  |                              |                                 |                    |
| (A) . . . . .                            | 40,288,575                           | 53.81                     | 24,280                 | 18,784                           | 41.63                        | -5,493                          | 77.36              |
| (B) . . . . .                            | 26,667,940                           | 49.93                     | 22,531                 | 18,784                           | 41.63                        | -3,747                          | 83.37              |
| (C) . . . . .                            | 26,667,940                           | 55.21                     | 22,531                 | 18,784                           | 55.58                        | -3,747                          | 83.37              |
| Native white, one parent foreign-born:   |                                      |                           |                        |                                  |                              |                                 |                    |
| (A) . . . . .                            | 5,981,526                            | 6.50                      | 2,935                  | 3,104                            | 6.88                         | +169                            | 105.70             |
| (B) . . . . .                            | 2,765,041                            | 5.18                      | 2,396                  | 3,104                            | 6.88                         | +768                            | 132.86             |
| (C) . . . . .                            | 2,765,041                            | 5.72                      | 2,396                  | 3,104                            | 9.18                         | +768                            | 132.86             |
| Native white, both parents foreign-born: |                                      |                           |                        |                                  |                              |                                 |                    |
| (A) . . . . .                            | 12,916,311                           | 14.04                     | 6,337                  | 5,112                            | 11.33                        | -1,225                          | 80.67              |
| (B) . . . . .                            | 6,701,652                            | 12.55                     | 5,662                  | 5,112                            | 11.33                        | -550                            | 90.29              |
| (C) . . . . .                            | 6,701,652                            | 13.87                     | 5,662                  | 5,112                            | 15.12                        | -550                            | 90.29              |
| Foreign-born:                            |                                      |                           |                        |                                  |                              |                                 |                    |
| (A) . . . . .                            | 13,345,545                           | 14.51                     | 6,547                  | 6,586                            | 14.59                        | +39                             | 100.00             |
| (B) . . . . .                            | 11,912,438                           | 22.30                     | 10,064                 | 6,586                            | 14.59                        | -3,478                          | 65.44              |
| (C) . . . . .                            | 11,912,438                           | 24.66                     | 10,064                 | 6,586                            | 19.49                        | -3,529                          | 65.44              |
| Total white, native-born:                |                                      |                           |                        |                                  |                              |                                 |                    |
| (A) . . . . .                            | 63,386,412                           | 74.36                     | 33,552                 | 27,000                           | 59.84                        | -6,552                          | 80.47              |
| (B) . . . . .                            | 36,134,633                           | 67.66                     | 30,529                 | 27,000                           | 59.84                        | -3,529                          | 88.44              |
| (C) . . . . .                            | 36,134,633                           | 74.80                     | 30,529                 | 27,000                           | 79.88                        | -3,529                          | 88.44              |
| Total foreign white stock:               |                                      |                           |                        |                                  |                              |                                 |                    |
| (A) . . . . .                            | 32,243,382                           | 35.06                     | 15,820                 | 14,802                           | 32.80                        | -1,018                          | 93.57              |
| (B) . . . . .                            | 21,379,131                           | 44.26                     | 18,062                 | 14,802                           | 32.80                        | -3,260                          | 81.95              |
| (C) . . . . .                            | 21,379,131                           | 44.26                     | 18,062                 | 18,802                           | 43.79                        | -3,260                          | 81.95              |

Laughlin, O. C., 1332-1333.

It is manifestly unfair to compare the total foreign-born population with the total native-born, for most foreigners come here as adults. Thus, according to the census of 1910, some 36.6 per cent of the native-born were under the age of 15, as contrasted with 5.7 per cent of the foreign-born. Taking method (B) as our basis we may note that in 68 penal institutions Dr. Laughlin found 45,124 adults. Of these, 18,784 were native-born whites, 11,325 were Negroes, 213 were of other colored groups, and 6586 were foreign-born whites. The native-born whites contributed 88.44 per cent of their quota, the blacks 234.86 per cent, other colored groups 96.82 per cent, and the foreign-born whites 65.44 per cent. One can but wonder if this means that the majority of immigrants come here with characters well established which they maintain in spite of the great change in conditions of life. It is noteworthy too that the white children born here, both of whose parents are of foreign birth, fill but 90.29 per cent of their quota, while those with one native- and one foreign-born parent exceed their quota and furnish 132.88 per cent. I would be very glad to understand just what causes the increase in crime in this last case.

Sutherland, in his recent book on *Criminology*, bears witness to the same phenomenon.

In 1920 in Massachusetts per 100,000 population fifteen years of age and over the following numbers were committed to penal or reformatory institutions for adults; 120 native-born of native parents, 226 native-born of foreign or mixed parents, and 143 foreign-born. This is in general the rating of the three groups; native-born whites of native parents have the smallest number of commitments, foreign-born whites rank second, and native-born of foreign or mixed parents (the second generation) rank highest.

Laughlin found great inequality in the different countries of Europe insofar as their share in the population of our penal institutions is concerned. Northern and Western Europe filled but 38 per cent of its quota, while Southern and Eastern Europe furnished 141 per cent. The figures for the different countries are:

|                                   |     |
|-----------------------------------|-----|
| Great Britain . . . . .           | 24  |
| Ireland . . . . .                 | 31  |
| Germany and Scandinavia . . . . . | 35  |
| Austria-Hungary . . . . .         | 68  |
| Russia and Finland . . . . .      | 126 |
| Italy . . . . .                   | 218 |
| The Balkans . . . . .             | 278 |

It is quite evident that typical crimes vary from country to country.

According to the census report of 1910 the Mexicans easily stood first among all immigrants in the rate of commitment to all penal and reformatory institutions (including jails and workhouses) and also stood first in most of the very serious crimes. The Irish stood second and the Scotch third, but these two groups had a much lower proportion of commitments for serious offenses, and much higher for drunkenness and disorderly conduct. The Italians stood twelfth in the list of seventeen nationalities, but they were second in the proportion of homicides and assaults. The tendency of Italian immigrants to commit crimes of violence may be illustrated from the statistics of Massachusetts; in 1920, out of 21 persons committed to the state prison for murder and manslaughter, 13 (62 per cent) were Italian immigrants, though Italian immigrants constituted only 3 per cent of the population of the state. The following is the list of names of persons found guilty or declared insane on charges of murder or manslaughter in Massachusetts in 1920, and it shows clearly the prevalence of Italians:

|                        |                            |
|------------------------|----------------------------|
| John Arzenti           | Pasquale Catrambone        |
| J. E. Bamforth (alias) | Angelo DiCassio (alias)    |
| W. Biruss (alias)      | Gaetano DiDomenico (alias) |
| Guiseppi Bonanno       | Nicola Dispensa            |
| Guiseppi Botta         | Francisco Feci (alias)     |
| Genero Buoniconti      | H. A. Frazier              |
| Maria Cammerota        | John Graco                 |
| Nicholas Caruso        |                            |



Imbrian Hassan  
Antonio Ingemi  
Mary Levesque  
Euplio Nuzzo  
F. W. Potter  
Joseph Sammarco

Henry Seipel  
Mamuel Smith  
Antonio Teregno  
Anna Tomaszewicz  
Jennie Z. Zimmerman<sup>3</sup>

There is some evidence that the second generation tends to approach the American custom as to the types of crime committed. This was the belief of the Immigration Commission of 1910. Sutherland says of it:

The tendency is very distinct, although it is not found for all crimes and all nationalities. The same tendency appears, also, in a comparison of the first and second generations of Italian immigrants with reference to crimes of personal violence.

Illustrative of this tendency Sutherland gives the following table, taken from the 1910 report of the Immigration Commission:

| Offense       | Irish      |                | Native Whites<br>of Native<br>Parents |
|---------------|------------|----------------|---------------------------------------|
|               | Immigrants | 2nd Generation |                                       |
| Homicide..... | 2.3        | 1.0            | 0.5                                   |
| Rape.....     | 0.0        | 0.3            | 0.7                                   |
| Gaming.....   | 1.2        | 2.7            | 3.6                                   |

NUMBER AND PERCENTAGE OF CONVICTIONS IN SPECIAL SESSIONS, CLASSIFIED BY CHARACTER OF OFFENSE, FOR THE THREE PRINCIPAL BOROUGHES OF NEW YORK CITY AND THE REST OF THE STATE, 1908

| Character of Offense     | Number (in Thousands) |                        |                | Percentage             |                |
|--------------------------|-----------------------|------------------------|----------------|------------------------|----------------|
|                          | Total in State        | New York and Kings Co. | Other Counties | New York and Kings Co. | Other Counties |
| Petty larceny.....       | 6,464                 | 2,988                  | 3,476          | 46.2                   | 53.8           |
| Assault, 3rd degree..... | 2,788                 | 779                    | 2,009          | 28.0                   | 72.0           |
| All other offenses.....  | 48,543                | 8,706                  | 39,837         | 17.7                   | 82.3           |
| Population, 1905.....    | 8,007                 | 3,743                  | 4,326          | 46.4                   | 53.6           |

<sup>3</sup> Sutherland—p. 100.

There is considerable evidence indicating that the rate of criminality is higher in urban centers than in rural districts. It may be that many things pass unnoticed in rural districts which bring the doer into the courts of the cities and that the real difference is in the execution of the law rather than in the criminal traits of the population of the two areas, but this point does not now concern us. Now it is a matter of common knowledge that recent immigrants are massed in our cities and industrial centers. If the rate of crime among them is excessive it would surely reveal itself in the statistics of crime in a given state. The only evidence at hand on this point is in the article of Mr. Hourwich already mentioned.

On this topic Hourwich says:

The three principal boroughs of New York City in 1905 contained nearly one-

half of the population of the state, yet they furnished only 28 per cent of all convictions for assault and 17.7 per cent of the most numerous class of petty offenses; petty larceny was the only offense whose frequency was proportionate to the population of the great city. Thus, though these three boroughs had twice as many foreign-born in proportion to their population as the rest of the state, New York City had relatively no more pickpockets than the rest of the state, and the number of all other minor offenders was in proportion much smaller in the three boroughs than up state. And that in a year which broke the record of crime.

A great mass of similar evidence might be presented, but I believe that which I have given is a fair sample. For many years it has fallen to my lot to teach courses in criminology and race problems. I have been compelled, therefore, to go over an enormous amount of material and to be fairly familiar with the opinions of the specialists. If, then, I may venture to interpret the evidence presented, the mildest verdict I can render is summed up in the word "inconclusive." No one can question that the presence of many millions of people who have grown up under other traditions and institutions is certain to complicate the administration of justice in our country. That no sane person wants to import a mass of mental or social degenerates needs no argument. I remain very sceptical of any difference in the nature of the races now here insofar as tendency to crime is concerned. I turn, therefore, to the problems presented by the actual situation, leaving final verdicts to wiser and abler men. The volume of crime in America, entirely omitting that chargeable to immigrants, seems to be far in excess of that in Europe. The immigrant appears to us as a convenient scapegoat and we have not neglected the opportunity.

#### COMPLEXITIES OF MIXED RACES

Mention has just been made of the heterogeneous make-up of our population. I wonder if we give adequate consideration to the police problem this presents. Listen to one of our authorities, Raymond B. Fosdick:

Our larger cities, indeed, are often divided by more or less well defined lines into nationalistic sections: Italians, Chinese, Poles, Russians, Czechs, Slavs, each with their own districts, where they settle in colony fashion. . . . In a single ward in St. Louis—to use an illustration that could be duplicated many times—there are 900 Austro-Hungarians, 830 Irish, 2,301 Germans, 2,527 Italians, 7,534 Russians and 493 Roumanians—all of them foreign-born—in addition to 14,067 native residents of foreign parentage and 1,602 Negroes. The official census proclamation of 1920 in New York City was printed in 22 languages.

It is this complex problem of nationality that the police are called upon to grapple with. They must enforce the same laws among a score of races and maintain a standard of conduct in a population coming from radically different environments. They must be prepared to understand the criminal propensities of Sicilians and Poles, of Chinese and Russians. They must become expert in detecting crime characteristics as shown by twenty races. They must deal with people who have no knowledge of public health regulations or safety ordinances or of these sanitary laws which distinguish the modern city from the mediæval town. They must have a ready knowledge of national customs and habits so as to be forearmed against an Italian festival, a Polish wedding or a Russian holiday. They must constantly realize that the juxtaposition of separate racial groups is a factor of potential disorder.

To see the London "Bobby" at work, dealing with people of his own race who understand him and whom he understands, is to learn a larger sympathy for his brother officer who walks the beat in New York, Chicago or San Francisco.

Sympathetic as Fosdick is, he is by no means satisfied with our police or-

ganization, for he says in another place:

In America, on the other hand, the student of police travels from one political squabble to another, too often from one scandal to another. He finds a shifting leadership of mediocre calibre—varied now and then by flashes of real ability which are snuffed out when the political wheel turns. There is little conception of policing as a profession or a science to be matured and developed. It is a job, held perhaps by the grace of some mysterious political influence, and conducted in an atmosphere sordid and unhealthy. It is a treadmill, worked without imagination or aim, and with little incentive except the desire to keep out of trouble. . . . We have, indeed, little to be proud of. . . . With all allowance for the peculiar conditions which make our task so difficult, we have made a poor job of it.

#### THE POLICE AND LAW ENFORCEMENT

Now, it is from the police that the immigrant gets his first vivid picture of American law. The conduct of the police, then, is a matter of great importance. Let us see if we can sketch the situation. The first point to be noted is that there are on the statute books a good many laws which few people desire to have strictly enforced. This fact creates a moral hazard for all concerned. The law may be enforced against a political enemy. It may be invoked against the little fellow or against the immigrant in times when there is some public agitation. The policeman is in a dilemma. He may not know whether all the buildings in his territory comply with the building laws or details of the sanitary code, but he soon comes to know every joint of every description, although his public admissions frequently are too modest. If he does not enforce the law some cranky reformer may hold him up to public condemnation. If he enforces it against the *wrong* persons he is

quickly shown his error. The results of this situation are thoroughly bad. The officer is corrupted. He loses faith in his superiors and in the city fathers. He begins to accept petty graft to allow the Greek peddler to vend his wares and violate certain ordinances. He accepts a weekly fee to permit a downtown business man to park his car day after day at some forbidden place. He comes to profit from the violation of law itself and there is no telling how far the cancer may eat.

#### WHAT THE IMMIGRANT LEARNS!

This the immigrant soon learns. He finds that law is openly disregarded and that small payments bring immunity. He notes that some Chinese gambling joint is raided while his son, who has become a waiter in some prominent club, tells him that gambling goes on unchecked. He witnesses the current hypocrisy with regard to intoxicating liquors. He becomes satisfied that all officials are grafting and that the public asks only for a certain semblance of decency in outward appearance.

The training of the immigrant does not stop here. He discovers that the American conscience is not tender as to what goes on *within* a given immigrant group. So long as Poles quarrel with Poles, Italians with Italians, or the Greeks and Armenians try to cheat each other, there is little danger of legal interference. Indeed, he finds that the average American official cannot fathom the working of the foreign mind and that conviction is often difficult. He finds too that many of the older Americans will fleece him at every opportunity and that his means of redress through the courts are inadequate. Much of the literature with reference to foreigners in this country seems to imply that special pains have been taken to train them carefully in

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the standards of the best people of the country. In fact, however, the average immigrant has received most of his training in the streets of the slums and I have often been surprised that the results were no worse.

The immigrant is penalized in another way. Miss Grace Abbott has written:

In Chicago, 57 per cent of all the cases disposed of by the Criminal Branches of the Municipal Court in 1913 were discharged. (Report of the Chicago Council Committee on Crime, p. 42.) As this report points out, there are two possible explanations for this: "(1) A large number of innocent persons are arrested; or (2) a large number of persons who are legitimately arrested and who should be convicted are being released because of some defect in our prosecuting machinery." In either case the result is the greatest confusion in the mind of the immigrant as to what is and is not unlawful in the United States.

That innocent persons are more frequently arrested among the foreign-born than among the native-born is the inevitable consequence of the popular belief in their criminality and of the feeling that they suffer less from arrest because of their inferior place in the social scale than do the native Americans. Quite the reverse is often true. Unjust arrest means for the immigrant, especially, discouragement and loss of idealism or a contempt for American institutions which leads to lawlessness.

In the same article Miss Abbott suggests that the immigrant is handicapped because the interpreters in our courts are often incompetent. The American practice of sentencing men to jail who cannot pay their fines weighs more heavily on the immigrant than on the native. Moreover, the immigrant is more often the victim of the shyster lawyer and he stands in peculiar need of a competent public defender.<sup>4</sup> It must be admitted that

<sup>4</sup> See "Legal Aid Work," *The Annals*, Part III, Vol. CXXIV, March, 1926.

these criticisms remain valid though the article was written ten years ago. Our court machinery needs much overhauling if we would deal adequately and justly with the immigrant.

There remains to be considered the phenomenon of the great increase of criminality among the children of immigrants. While this is of great interest and significance it is not the least surprising to students of crime. If all crime could be explained as a biological phenomenon we should be forced to discover some inherent inferiority in the stocks entering the country. Inasmuch as the group having one parent foreign-born, the other, native-born, shows the highest criminality, we should be forced to assume that the natives marrying the foreigners were of peculiarly degenerate type. I know of no evidence on this point. While the rôle of the degenerate is much more fully appreciated by students than by the man on the street or in the legislature, the students believe that the degeneracy is more often moral than physical.

#### THE EMBRYO CRIMINAL

Every study that we can find seems to indicate that the great majority of boys and girls sent to our reformatory schools come from homes in which there is trouble. The children have not been adequately cared for and trained. They have been allowed to run more or less wild. If this is true of children of native stock, why should it not be true of the children of foreigners? A moment's thought will reveal the situation. The child of the immigrant quickly masters English. He becomes the family interpreter. Years ago I asked the head of the anti-tuberculosis movement why the attractive pictures sent out to the immigrants had their explanations printed in English. He replied that it had been found that



few of the adults could read any language and that if the legends were in English the children could translate them for the adults. These immigrant children go to school, intermittently sometimes. Little provision is made for their recreation. The street is their playground. Their wits are developed. They think themselves Americans. They scorn the standards of their parents and are soon out of control. The results are soon apparent. Thirty years ago I found twenty per cent of the inmates of a juvenile reformatory in one of our large Eastern cities to be Jewish boys. Yet no group of recent immigrants has maintained a higher standard of home life than the Jews.

This younger generation comes to want all the material possessions of the wealthier group. The child wants a good time. Inasmuch as the pace of his parents is too slow he tries crime. He knows of the inequalities in administration of justice already noted and comes to believe that anything is alright provided one does not get caught. The parent may rankle under the same sense of injustice but he has been taught law obedience. But the foreign parent finds it difficult to teach law obedience when he neither knows nor sympathizes with many of the laws. The result is the young criminal. In some such way as this, it seems to me, we may account for the present phenomenon.

#### NEED FOR MORAL EDUCATION

It must be admitted that our knowledge of the best ways of reforming men is pitifully meagre. What effect punishment has is a matter of great doubt. These are matters into which we may not enter now. It seems to me that what we need to do is to realize that

education should be moral as well as intellectual. We have stressed the attainment of facts, but have understressed the application of those facts in our relations with each other. Here there is need for reform. I trust we may come to put more emphasis on moral education and yet avoid the danger of identifying moral education with religious dogma. Crime among the second generation of immigrants is, I believe, an indication of a lack of adjustment whose causes are by no means obscure but whose remedies may be very difficult. Meantime it behooves us to be guided by fact rather than by prejudice. The immigrant may have ideals as lofty as our best, but he lives under circumstances of peculiar difficulty and his children lack many of the safeguards which we have always considered important.

#### IN CONCLUSION

In conclusion let me summarize briefly the points I have tried to make:

- (1) Immigration has added to the complexity of our problem of crime and to the difficulties in the administration of justice.
- (2) There is no reason to believe that the immigrants themselves are contributing unduly to the volume of crime.
- (3) There is evidence that our penal machinery is none too well adapted to the present situation.
- (4) The crux of the problem seems to lie in the activities of the children of the immigrants.
- (5) The problem seems to be social rather than biological in origin.

## Recreation Centers as a Means of Crime Prevention

By MAJOR SAMUEL O. WYNNE

Chief County Detective, Philadelphia, Pa.

**H**OW can crime be prevented? This question is almost as old as crime itself, and for many hundreds of years efforts have been made to find a satisfactory answer. Practically all these efforts have been directed to the arrest and punishment of the person committing the crime, the belief being that in order to prevent crime it was necessary to punish the offender sufficiently to not only reform him but to be a shining example to others who might contemplate some criminal offense.

In the early days an offender was put to death for the commission of any major crime. As civilization progressed, it was discovered that putting men to death for crime did not deter other people from committing similar crimes, and, consequently, it has developed that persons are now put to death for murder only. In fact, the method of putting them to death has also progressed, so that now men are not only being hanged for murder but are being put to death by electrocution, by shooting and by gas. Notwithstanding the fact that persons are being put to death for the crime of murder, murder continues, and will probably always continue, so long as men are swayed by hatreds, jealousies, greeds and passions.

To-day, constant efforts are being made to do away with the death penalty entirely, because people do not believe that it is proper, and they are convinced that the putting to death of a person convicted of murder does not seriously prevent other murders.

What is true of murder is true of practically all other crimes. For hundreds of years men have been put into prison for the commission of crimes of all sorts. It has been the theory that placing men in prisons for crime was the only way whereby others might be deterred from becoming criminals. However, there is a tendency to make the sentences shorter and shorter.

There has been little or no scientific study made of the causes leading to crimes before the offender was tried or convicted. There certainly have been no adequate measures taken to improve the present system in a serious effort to really reform the offender. In our own state, the offenders—whether it be their first conviction, or a hardened repeater—are all put together in the same prison, with the result that the first offender, instead of being reformed, in many cases, if not in most cases, secures, in addition to his imprisonment, a most thorough criminal education. Until the state differentiates between the various classes of persons committed to prison, and segregates them, this criminal education of men in prisons will continue.

There is a wide difference between the man who is a criminal in the true sense of the word, that is, one who makes his livelihood by crime, and who commits one crime after another, and the man who commits a crime for the first time, and who may not be a criminal at heart, and it is an outrage to imprison them in the same institution, and a disgrace to our state.

After many years' experience in

placing persons in prison, for all kinds of offenses, I am convinced that it does not prevent crime. Of course, if we would make the punishment adequate to the offense, I have no doubt it would be a deterrent for others, but our civilization has progressed so far that it has become difficult to convict offenders, much less fit the punishment to the crime.

It seems to me that our efforts are in the wrong direction.

#### VALUE OF PREVENTIVE MEASURES

Instead of waiting for a man to commit a crime and then go to the great expense—and it is a great expense—of apprehending him, trying him, convicting him, and maintaining him in a prison for a number of years, we should approach the subject from the other angle and endeavor to prevent the crime being committed at all.

If the same amount of money expended in the prosecution of criminals were used in real preventive measures, it would be spent much better, and, to my mind, in a more effective manner.

In the past few years the age of the lawbreaker has come down to twenty-five years or under. In fact, most of the crimes of violence to-day are committed by mere boys of from sixteen to twenty-five years of age. Therefore, if we are going to make a serious effort to prevent crime, it must be directed to the moral improvement of the boys.

The average boy who stops school at the age of fourteen or fifteen, in most instances because it is necessary for him to go to work to help support the family, is left to shift for himself. Very little effort is made to ascertain what the boy does when he is not working. Consequently, he is thrown on his own resources, frequently getting into employment that is not the proper kind, and his spare moments are spent

on street corners, cheap pool rooms, or worse places. It is only one step further to the first criminal offense.

#### MAKING USE OF THE SCHOOLS

In large cities, and in every community, we have great public school buildings, costing millions of dollars, that are practically idle sixteen hours out of every twenty-four. My suggestion is to make these school buildings into neighborhood clubs, which will become the recreation center for every community. We should not wait for the boys to come into these centers, but go out and not only invite them in but encourage them to come in. Under proper supervision, they should be taught the great value of education, occupation and recreation. They should be encouraged to continue their education. They should be taught the trades that suit them best, and, above all, they should be taught to play.

The plan outlined here could be put into effect without great expense, if one considers the benefits that are bound to result therefrom. We have school buildings everywhere. The new modern buildings could be used practically as they stand for a purpose of this kind. The older buildings could be improved to take care of the needs of their community.

With the proper force of supervisors, I am confident that this plan would result in great advantage to the boys. In time the school buildings would become the real community centers, and a benefit to every person residing in the district.

This is not a religious question but a great moral issue, and unless we take the matter seriously and solve it by building up the boys into clean, right living, right thinking citizens, crime will continue to increase, and the problem will only become greater as time goes on.

# Improved Housing as a Means of Crime Prevention

By JAMES FORD

Executive Director, Better Homes in America, Inc.

A lodging fit for a human being is the first requirement for the bodily and mental welfare of the family; it is the prerequisite for a well-regulated family life and for the rearing of the children to be moral men and women.

THE above statement by P. Hirsch in his *Verbrechen und Prostitution* is fairly typical of the attitude of a large number of specialists in the field of criminology and of housing. Nevertheless, no adequate statistical studies of the causes of crime which properly isolate housing factors are available at this time. Nor does it seem probable that housing factors can be sufficiently isolated from other environmental factors, or from conditions of family life, moral training, and the mental and emotional make-up of the individual, to make such a study convincing. Bad housing conditions are generally accompanied by conditions of poverty, ignorance, malnutrition, or evil associations. Attempts to demonstrate statistically the influence of the dwelling upon morality, like that of Dr. E. Laspeyres in his *Der Einfluss der Wohnung auf die Sittlichkeit*, are wholly unconvincing. We may, however, continue to agree with William Adrian Bongers<sup>1</sup> that, in spite of the difficulty of distinguishing good conduct from bad, and of separating the effect of bad housing from other influences operative at the same time, "there is a relationship between housing and conduct."

The influence of home conditions, as distinguished from housing factors, is easily demonstrated from case histories, and ably elaborated in the book by

<sup>1</sup> *Criminality and Economic Conditions.*

Breckinridge and Abbott on the *Delinquent Child and the Home*. But as might be expected, in all the many cases described in which undesirable housing conditions were found, such as overcrowding, the lodger problem, defective sanitation, and poor standards of maintenance, there are other factors of home-life which might be sufficient in themselves to account for the delinquency. We are not sure in any given case whether bad housing conditions caused or resulted from these other factors.

It may, however, still be reasonably argued:

- (1) That bad housing conditions may reduce the physical health of members of the household;
- (2) That by reducing health, they may reduce resistance to temptation;
- (3) That housing conditions may be directly conducive to contamination of the moral life;
- (4) That overcrowding, discomfort, lack of privacy, and improper facilities for home-life may drive the members of the family to spend their leisure away from the home, which for many inevitably means subjection to another group of unwholesome influences.

## HEALTH AND HOUSING

The relation of housing to disease I have treated in detail elsewhere.<sup>2</sup> It is

<sup>2</sup> See National Housing Conference Proceedings, 1914; National Conference of Social Work Proceedings, 1919; and *American Journal of*



agreed that the prevalence of certain diseases is associated with specific housing conditions, as, for example, typhoid fever and hookworm disease with the primitive sanitary conditions of rural districts, industrial villages and the outskirts of some of our cities; tuberculosis and several other respiratory diseases with dark and ill-ventilated rooms and overcrowding. A detailed defence of these statements, however, must be left to the studies above named. In addition, there is convincing evidence that residence in the sunless and ill-ventilated tenements, in which much of our crowded urban population dwells, reduces resistance to disease and leads to a low general condition of health or vitality in susceptible cases.

The moral life of the individual is unquestionably affected by his physical health. As Professor MacCunn has shown in his *Making of Character*, good health is a prime condition of "practical energy." "A weak or sickly body is a grievous moral disability, in so far as by narrowing the range of contact with life it stunts the character." Such lack of energy which we have seen may be caused by housing conditions, may be an important factor in producing that physical inferiority in certain persons among our criminal population which Charles Goring emphasizes in his statistical study entitled *The English Convict*. It should be remembered, however, that the latter study deals with a specialized group of the criminal population. Though it is difficult to demonstrate this point, it seems more probable that housing conditions, by reducing physical energy, may reduce, at the same time, the moral energy of individuals to resist the opportunities

for evil which slum conditions so generally offer. Doubtless it is usually the marginal individual whose moral training has not been good and whose moral standards are therefore not high who is thus tempted over into anti-social behavior.

MacCunn submits further that good health is the basis of moral endurance:

The weaker the body is the more it commands. It commands in the hour when we cannot face our willing work, or when we wince like cowards under demands that shake the unstrung nerves, or when it makes us, in spite of resolutions, morbid, irritable, wrong-headed in our estimates of men and things.

To this, MacCunn adds that

bodily health is also a condition of all soundness of practical judgment. For though health and cheerfulness may not bring wisdom, they afford securities against unwisdom in some of its most familiar forms. Even the salt of the earth may thus on occasion be betrayed, by nothing more dignified than physical exhaustion or irritability, into judgments peevish, uncharitable, precipitate.

#### SOCIAL RESULTS OF OVERCROWDING

If MacCunn's argument is sound, it is scarcely strange that the crowding of ignorant and badly trained persons in our tenements may result in frequent cases of grudges and quarrels, which sometimes end in a call for the police and the beginning of a record in the criminal court.

Overcrowding is an outstanding condition in the tenement life of our industrial population. Surveys of housing conditions made in more than seventy American cities have shown it to be a factor present in each. It takes two main forms: either the crowding of large families into a tenement of two or three rooms, or sometimes in a single furnished room; or else the taking of lodgers to live with the family in quarters too small to make privacy

*Public Health*, December, 1914 and January, 1915. Fuller treatments of the subject will be found, also, in Sykes' *Public Health and Housing* and in Robertson's *Housing and the Public Health*.

possible. Frequently, this means that children of both sexes have to sleep several to a bed or in the same room or bed with their parents, or in the same room with lodgers. This almost inevitably means that there can be no provision for privacy or decency, and results in sexual precocity and in many cases to promiscuity which may, of course, in time lead to a criminal record.

There is probably no one correlation between housing conditions and the violation of our criminal statutes as important or as serious in its social consequences as this. Cyril Burt expresses this cogently in his book, *The Young Delinquent*:

To view the home in isolation from the individual, to deal with environment as a thing apart, to picture its bad effects as an external deposit which may stick for a while, but can be easily wiped away from the surface, becomes utterly fallacious. Some natures remain unsoiled though sunk for years in mud; others are porous and penetrable; and the grime works into the grain. (It is the personal reaction to a given situation that makes a man a criminal, not the situation itself. It is not bad surroundings alone that create delinquency, but the workings of these bad surroundings on the thoughts and feelings of a susceptible mind.

Somewhat less tangible but of unquestioned significance is the effect of home discomforts upon the conduct of the individual. To return from school or from the day's work to a dwelling of three or four dark, malodorous and crowded rooms, invaded by the noises of brawling neighbors, crying children, and the rumbling of passing traffic, and then to find nothing of beauty or cheer, no convenient place to read or play or entertain one's friends is likely to lead either to sullen indolence or to profound discontent. Escape is possible, however, for those whose spirit is not yet broken. It is the usual recourse of

the adolescent boy or girl, if not of the parents. So from the physical and mental suffocation of the tenement they thrust themselves upon the streets and into the excitements which the night-life of the city may offer to persons of their interests and backgrounds. This "expulsive factor" of bad housing drives the individual to the streets where he is confronted by the agents of commercialized recreation, drink or vice. Reduced as he is in physical and moral resistance by the condition of the dwelling which he calls home and obsessed with a justifiable desire for gayety and adventure and release from the thralldom of intolerable circumstance, it is scarcely strange if he succumbs to moral hazards and becomes involved in socially undesirable or anti-social activity.

#### WHAT CAN BE DONE

Unquestionably some, but not all of the slum dwellers who violate our laws, would not do so if through our public housing policy we should succeed in providing them with decent homes. Very little evidence, however, has yet been assembled to vindicate this statement. There is useful material in Dr. Arthur H. Estabrook's *Study of the Jukes* in 1915, in which he demonstrates that the Juke children who are removed from poor living conditions and transferred to foster homes of a better type are apparently averaging better than the stock from which they came. Further studies of this sort are very necessary, but it should be borne in mind that the housing factor is not the sole factor involved in the improvement. The Municipal Corporation of Liverpool, England, has somewhat more convincing evidence of moral betterment through better housing, as it has, over a long period of years, placed in its new housing developments the very same families which it has

dishoused in its slum demolition schemes. They report a surprising improvement of the habits of such families after they are transferred to better housing conditions and a notable reduction in both alcoholism and criminality.

A comprehensive policy for housing improvement should begin with a continuous leveling up of the standards of our poorer housing through progressively raising the minimum requirements of construction, sanitation and maintenance established by legislation. Such policy will inevitably include also for America, as for European cities, special schemes for slum demolition and for the construction, by proper agencies, of wholesome private dwellings for families of small income. It should further promote, as rapidly as feasible, the decentralization of our

industries and the concomitant decentralization of residences of the workers. But such a policy for decentralization, to be effective, must involve community planning, as well as the construction of private homes for the industrial workers.

Of late years, the most notable progress in America has been made in the field of restrictive legislation and of zoning. The more significant progress in the future will be made through comprehensive city, suburban and regional planning, the decentralization of industry, and general public education in the ways by which every American family can, at minimum cost, improve its own conditions of housing and of home-life. Such a program, though justifiable on other grounds, will contribute materially to the prevention of crime.

## Training for Citizenship in the Schools

By FRANCIS M. GARVER

University of Pennsylvania

THE use of a system of free public schools to serve as an agency for the preservation and stabilization of our democratic institutions has been officially recognized almost from the beginning of the establishment of this Republic. During the early colonial period schools were established, generally under the auspices of various religious organizations, for the purpose of protecting the religious integrity of the community against the attacks of proselyters from other faiths, the religious indifference of later colonial immigrants, and the worldliness that was incident to larger and larger measures of material prosperity as the hardships of frontier life receded farther and

farther in the distance of past time. Except in Massachusetts and other bordering colonies these schools were wholly private, that is, they were in no wise supported in whole or in part by a tax on the property of all the inhabitants of the community. Only those concerned in the preservation of a particular group of religious tenets and practices were taxed for the support of such schools.

By the time this country became an independent nation the use of schools to preserve the beliefs, customs and traditions of the elders was a well established and generally accepted principle. It was, therefore, an easy step to make use of this principle for

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the preservation of our political integrity after we had begun the experiment of democratic control of government. It is true that no mention of education or of schools appears in the national Constitution or in the minutes of the Constitutional Convention. In fact, up to 1800 only eight of the sixteen states then members of the Union had made any mention of education in their original or revised constitutions. Education had always been a church or family matter and the importance of the public school as a buttress for our democratic institutions was only vaguely felt at first. Soon after the beginning of the 19th century, however, the need of public schools to disseminate general knowledge as a basis for the better understanding of the nature of our institutions and therefore as a better preparation for the duties of citizenship came to be understood. Provision for free, publicly supported schools came to be written in the revision of state constitutions thereafter.

#### NEED FOR A LITERATE CITIZENRY RECOGNIZED

The need for a literate citizenry in a republican form of government was frequently expressed as a part of the provision for public schools written into state constitutions. Section 83 of the Constitution of New Hampshire, adopted in 1784 as a revision of the Constitution of 1776, is typical of this sentiment:

Knowledge and learning generally diffused through a community being essential to the preservation of a free government, spreading the opportunities and advantages of education through the various parts of the country being highly conducive to promote this end, it shall be the duty of the legislatures and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools; to encourage private and public institutions,

rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trade, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections and generous sentiments among the people.

The belief in general literacy as a basis for the right functioning of popular government has grown steadily since the early days of the Republic. Compulsory education is now all but universal in this country. In fact, no state is now without a compulsory education law of some sort, although the exemptions permitted in some states practically nullify the law. The belief in the efficacy of universal education has within the last generation also taken another trend. Not only must all members of society be subjected to school training for the social good, but opportunity must be offered for *more* education to all; every one must be provided with the opportunity for secondary as well as for elementary education at the expense of the state. Apparently, the underlying theory for this expansion of educational opportunity is that the social efficiency of the individual is in direct proportion to the number of grades he has passed in his school training. As a case in point the U. S. Bureau of Education a while ago put out a bulletin entitled "The Money Value of an Education."<sup>1</sup> Any education, providing enough of it is obtained to be a sufficient training for membership in a democratic society, has been and to a large extent still is the dominating principle in citizenship training. Quantity, not quality, in school training has been taken as the standard for preparation for associated living in a democratic society. Qual-

<sup>1</sup> U. S. Bureau of Education, Bulletin (1917) No. 22.



ity is not necessarily ignored, but it is of an undifferentiated kind. It does not specifically and definitely lead to preparation for definite social behaviors beyond the doors of the school house.

#### WHAT THE SCHOOL SHOULD DO

The greater the amount of training within limits of the kind that are carefully planned to bring about certain desirable foreseen results would, of course, make the individual more efficient in the performance of those activities than a less amount of such training would; but to assume a potency for social behavior in an extension of educational opportunity, particularly as education has largely meant mere acquaintance with the social facts of the present and the past as gleaned from school text books, is, to say the least, wasteful.

School training for active, intelligent and efficient participation in associated living in a democratic society demands a basic knowledge of social facts, to be sure, but this knowledge must function in the establishment of standards of behavior, and must be accompanied by the building up of a mass of definite habits of correct performance in the various social situations the individual frequently meets as a member of the social group. Only when school training results in giving the individual the knowledge, attitudes and habits of behavior which will enable him to participate effectively in social responsibilities, as well as partake of social privileges, is it worth while, whatever length of time it extends over. Since elementary school training is required of all, it must make a very definite contribution toward this preparation for citizenship.

Training for citizenship in the elementary schools of the nation has always been built on a blind faith. The study of United States history was

introduced into the elementary school curriculum about the middle of the last century to act as the medium for citizenship training. As the content was largely the political history of the nation on a strictly chronological basis and as the method of teaching was largely that of the memorization of the facts outlined in a text book, the subject did not yield that measure of desirable training which is possible when the subject is properly taught. Yet the schools have pinned their faith in the plan, for it is still largely the only method used for training the young in the duties and responsibilities of an intelligent member of a democratic society. Until quite recently no attempt was made to evaluate the contributions that history, geography and civics actually make in affecting the after-school behavior of the pupils. It was assumed that these subjects did make a worth-while contribution and therefore needed no justification.

The general recognition of society's failure to grapple successfully with many of the problems growing out of the so-called industrial revolutions of the past fifty years, has forced a critical survey of what is being taught in the schools and the purposes to be accomplished in teaching it. Each subject in both the elementary and the secondary school is being made to justify its right to a place in the curriculum on the basis of the worthwhileness of the social contribution it can make. Whatever school activities are used eventually, as media for training youth in efficient participation in group life, will have been carefully analyzed to discover their possibilities for that purpose and then will have been so organized and so used during the school training period that the anticipated desirable changes in pupil behavior in after-school life will be reasonably certain. If courses in history, geog-

raphy and civics are to be used as the chief means for citizenship training in the future as they are used to-day, they will be so organized that civic ideals, methods of thinking through social problems, and the formation of proper habits of social behavior under correct teaching procedures must result. That such outcomes are not generally apparent now from these elementary school courses is due largely to the fact that the activities of the efficient citizen have not been carefully inventoried, and consequently school authorities do not know at what to aim in planning courses for citizenship training.

Those charged with the responsibility of constructing curriculums to meet social needs are coming to realize that text-book descriptions of the various political and social institutions, the underlying principles that account for their existence and operation and other factual data concerning them are insufficient as the sole material to be used in properly adjusting young citizens to our present complex social life. They are beginning to see, rather dimly as yet, that rationalization of the social processes, although possibly a necessary step in the total training program, does not necessarily modify social behavior; that to bring about changes in social behavior understanding of *how* to act must be accompanied by a *desire* to act properly, and the establishment of definite habits of responding appropriately to various social situations.

Only a very few school systems in the United States have as yet worked out a course in citizenship training that attempts to solve the problem beginning to be understood by many others. The great majority of the elementary schools of the country are using the old knowledge-of-the-facts scheme to induct the young into a fuller and more significant social life, apparently un-

aware that such a plan of procedure does not bring about the desired results. Children are still discussing social problems in class quite intelligently and then on their way home from school kicking over garbage receptacles and ash cans placed along the sidewalk to await the coming of the collectors from the sanitary department of the city. Habits of behavior as young citizens must be built up before we can hope for an efficient generation of citizens to be.

#### RESULTS OF SCHOOL SURVEY

To discover the exact nature of the training for citizenship that is being provided in the schools of the nation, the writer recently wrote a personal letter to the superintendents of fifty-one of the larger cities of the United States, in which he asked them to send him a copy of that portion of their city courses of study which indicated to the schools of their cities what should be done in the matter of training for citizenship. They were also asked to send any supplementary bulletins on the subject they might be using. A similar letter was sent to the state superintendents of twelve of the states that were thought might be doing some positive work in the citizenship training of elementary school children. Of the fifty-one city superintendents to whom the letter was sent, fourteen did not reply at all. The replies from the others indicate the following situation concerning what is being done in the matter:

(1) Fifteen regretted that they had no specific courses in citizenship training, indicating that they recognized the need for such courses. (2) Sixteen had a course organized more or less definitely to accomplish certain citizenship objectives. (3) Six attempt to train for citizenship through the use of factual material in courses in history, geography and civics.

The following twenty-two large cities up to the present time depended chiefly upon courses in history, geography and civics organized upon a factual basis, although frequently stated in the form of social problems, to give the necessary citizenship training in their schools:

- Baltimore, Md.  
 Buffalo, N. Y.—Issued a booklet on "character training" three or four years ago, which is to be revised.  
 Charleston, S. C.  
 Chicago, Ill.—A course in citizenship training is being prepared.  
 Columbus, Ohio.—Has a committee working on a "citizenship" course.  
 Davenport, Iowa.  
 Duluth, Minn.—Working on a "citizenship" course.  
 Kansas City, Mo.  
 Louisville, Ky.  
 New Haven, Conn.  
 New York, N. Y.  
 Portland, Ore.  
 San Francisco, Cal.  
 Sioux City, Iowa.  
 South Bend, Ind.  
 Spokane, Wash.—A "citizenship" printed letter was recently sent to all teachers calling attention to certain civic virtues.  
 St. Louis, Mo.  
 Toledo, Ohio.  
 Tulsa, Okla.—A course is being constructed.  
 Wilmington, Del.  
 Wichita, Kan.

The social-studies courses of some of the above cities are unusually good, of the kind that provides directly for the intellectual development of the pupil, but are so organized that the acquisition of norms of conduct and positive habits of social behavior is incidental to the solving of social problems stated as puzzling situations in the courses themselves.

#### CITIZENSHIP TRAINING IN TOLEDO

Toledo issued only last year a particularly good course of study of this

kind for use in the seventh and eighth grades. It is entitled "History with Related Geography and Civics" and deals with the facts concerning the development of this nation from early European beginnings down to the present. These facts are organized into the following eight units in the seventh grade:

- (1) American beginnings in Europe.
- (2) European rivalries.
- (3) Colonization.
- (4) Colonial rivalry.
- (5) Problems of colonial life.
- (6) Revolutionary war.
- (7) The Constitution.
- (8) Civics of our community.

The units in the eighth grade are:

- (1) Setting the government in motion.
- (2) Complicated foreign relations.
- (3) Troublesome neighbors.
- (4) Westward expansion.
- (5) Political parties and their problems.
- (6) Developments that have made a world power of the United States.
- (7) The growth of democracy.

Each unit is organized around a series of intellectual problems, such as: "How did the Crusades lead the people of Western Europe to see, appreciate and make use of what other people had accomplished?" With each unit is also correlated the associated geographical and civic facts. Only once in the entire course, however, is there any indication of the need of some form of dynamic civic behavior. Under the heading of "civics," in connection with the first unit of the seventh grade work, the course says:

A good citizen is one who from choice and self-direction is diligent in doing the things which promote the welfare of his social group. Teachers are apt to think of civics as the teaching of government, yet any-

thing which increases our intelligence adds to our efficiency as a citizen and develops the civic virtues of Honesty, Service, Cooperation, Thrift, Health, Courtesy and a Sense of Responsibility. The following activities are suggested as means of teaching citizenship in this grade:

(1) Clean-up campaign. (2) Better personal hygiene drive. (3) A campaign for clean speech. (4) A campaign against the abuse of school property. (5) A campaign against tardiness. (6) Junior Red Cross Chapter. (7) School banking. (8) Community Chest Drive. (9) Campaign against unsportsmanlike conduct at games. (10) City Beautiful. (11) Fire Prevention. (12) Safety First.

The life of Columbus as a boy, his hardships and courage, afford good citizenship ideas in this unit.

The Toledo course is one of the best of the knowledge-of-the-facts types of courses used for citizenship training. Many of the courses used in cities are merely logical arrangements of historical, geographical and governmental facts with which children must become acquainted as basic training for citizenship. Such courses are intended to serve other purposes as well as to train for citizenship, but they are the chief means used for the latter purpose. The assumption is that if the individual has a thorough knowledge of social facts he will thereby and therefore make his conduct conform to the best social standards.

#### STEPS IN THE RIGHT DIRECTION

An examination of the "citizenship" courses of study of the sixteen cities that submitted more or less definitely organized courses reveals the fact that none of them have been in use quite ten years. The Philadelphia Course of Study in Civics, for grades one to six, was printed in the summer of 1916. Of the others, one was formulated in 1918, one in 1921, one in 1922, four in 1923, one in 1924, and seven in 1925. The recency of these dates indicates

that we are just at the beginning of the movement to make public education function positively and directly in training for citizenship; that the period of blind faith in the value of intellectual understanding as a sufficient control element in social conduct is being replaced by a period of setting up attainable objectives of social conduct and of devising methods of permitting pupils to practice and to want to practice *being good citizens* until the objectives will have been registered as ideals and habits as a part of the very beings of the next generation of adult citizens. It is well known that the beliefs, customs and traditions, the *mores*, of a people are the result of having lived them. Good citizenship must be lived, and the school must set the standards and shape the course under which it may be lived effectively.

Although these recent courses of study in good civic behavior promise much for the future, they cannot be said to have yet succeeded in fully meeting the situation. They have made a step away from the exclusive use of the conceptual basis for behavior, but have not yet succeeded in working out a proper balance between understanding the nature of social principles, attitudes or ideals of conduct, and definite habits of performance. Most of them have been content to establish certain ideals of social behavior, without providing much practice in the performance of these virtues. Nearly all of them list certain ideals of conduct that closely parallel the twelve laws of the Boy Scouts of America, or the eleven laws contained in Hutchin's Morality Code for children. They are deficient in suggestions for the transfer of these ideals from the mere acquiescence-in-their-validity basis to personal acceptance of them as guides of social behavior. They also fail to show the relation of the contributions to citizen-



ship of other school activities (history, geography, literature and many extra curricular activities) to the activities organized for the specific purpose of acquiring these social-civic ideals.

#### WHAT BOSTON IS DOING

One of the best of these newer courses of study is Boston's "Course in Citizenship through Character Development," published in 1924. It accepts *in toto* the eleven laws of the Hutchin's Code, to which is added another—"The Law of Obedience to Duty Constituted Authority." In the ninety-six-page pamphlet which makes up this course are listed the twelve laws upon which it is based, together with a careful analysis of the characteristics of a good citizen and how the observance of each of these laws will tend to bring about such an individual. In each grade each of these laws is to be studied, but adapted to the age and activities of that grade. The complete outline for grade six is the only one printed in this pamphlet. In this grade each of the laws is treated under the heads of (1) daily directed discussion; (2) practice in activities; and (3) instruction through the stressing of appropriate points while teaching various subjects in the curriculum. Parts one and three are given to the development of concepts of norms of conduct, and part two, although labeled "practice," is largely given to training through precepts rather than through the practice of acts that would automatize the civic virtue expressed by the law. For instance, the "practice in activities" part of the course, under the law of self-reliance, contains the following suggestions to the teacher:

1. Allow student councils to handle breaches of discipline.
2. Conduct socialized activities.
3. Have a suggestion box. Discuss the most valuable suggestions and lead the class to adopt some of them.

4. Organize for such public campaigns as the "Clean-up Campaign" in the school.

5. Have a roll of honor containing the names of pupils conspicuous for acts of self-reliance.

6. Make self-reliance books of  
Self-Reliant Men in History,  
Little Known Heroes,  
Modern Heroes,  
Heroes I Know,  
Everyday Achievements in Self-Reliance.

In order to vitalize the course in citizenship, Boston also publishes a monthly magazine called *Citizenship through Character Development*, in which are published the work of children in connection with acquiring proficiency in living up to the standards of the various "Laws," and suggestions on teaching character development. The October, 1925, number contained forty-four pages.

#### PRESENT COURSES

Most of the teachers of the United States make use of state courses of study for their work in the smaller cities, towns, villages, and the rural districts where there are no local printed or mimeographed courses of study. What training in citizenship is therefore provided for the majority of the children of the nation? An examination of various state courses of study fails to show any marked change away from the usual plan of assuming a knowledge of the essential facts of history, geography, civics and literature to be sufficient training for social behavior. Utah has a "Character Education Supplement" to the state course of study, which makes a definite attempt to organize material for citizenship training. Like the Boston course it uses the social virtues selected by committees working in the field of character education. North Carolina has a course entitled an "Outline

Course of Study in Americanism" based on the Hutchin's Morality Code. A few others also show tendencies to expand citizenship training beyond the understanding of the facts upon which civic ideals are based.

Whatever training the schools have given in citizenship, up to within recent years, has been incidental to the study of the various school subjects organized logically to show a proper sequence of related facts. The assumption has been that, if the individual understood the facts and more particularly if he knew the reasons for the existence of the facts, such intelligence would cause him to perform his social duties adequately and effectively. Recent organizers of curricular materials have shown that, besides a knowledge of the facts, the individual must acquire an attitude

of desiring certain standards of social behavior to include all members of society, including himself, and must have sufficient practice in performing many of the more common social acts to automatize them and thereby raise the general level of civic intelligence and civic performance. Undoubtedly the future will show that it is possible to organize the social elements in all the school activities and co-ordinate them so that constantly throughout the school day and throughout the school curriculum the child is being given positive and definite training in citizenship, whether he is engaged in classroom recitations in the various subjects, on the playground, in school assemblies, or what not. But such an organization of materials and methods has not yet been made.

## Moral and Civic Education in the Elementary School

By DR. ERNEST HORN

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ONE cannot read the newspapers and magazines of to-day without being profoundly impressed by the amount of lawlessness reported by them. Moreover, since only the more spectacular crimes, such as murders, banditry and bootlegging are ordinarily given space in the papers, while many small but frequent offenses, such as petty thievery, slander and trespass are given little or no publicity, it is clear that law-breaking is even more common than the newspapers would lead one to believe. The most superficial analysis of crime in this country shows clearly the need for a more definite and effective training in morals and citizenship.

The conditions in this country are much more critical than those in

Europe or in Canada. The difference can be illustrated by comparing the statistics on murder in various countries. Estimates which the writer has seen vary, but apparently a citizen of the United States is from thirty-five to forty times as likely to be murdered as a citizen of Switzerland, and sixteen times as likely to be murdered as a citizen of Ontario or Quebec.<sup>1</sup> An analysis of other types of misbehavior indicates in greater or less degree the fact that in the United States our combined educational institutions, including the school, the home, the church, the newspaper and the court,

<sup>1</sup> Bagley, W. C.—"On the Possibility of Securing Moral Ratings for the Several States," *Educational Administration and Supervision*, Vol. 11, pp. 289-306, May, 1925.

have failed to develop a type of citizen who is as law-abiding as the citizen in the average European community. It may be that our situation contains factors not found in the same degree in other countries. Clearly, however, all types of educational institutions must take serious stock of the possibilities of improving this situation.

The problem of moral and civic education is not peculiar to this age. It has been present in every period in history, but it is especially prominent whenever economic and social conditions are changing rapidly. At such times traditional modes of behavior break down and there is a lack of agreement as to what constitutes good conduct. At such times the young as well as the old are required to make adjustments for which they have no adequate guide from past experience. As a result, individuals, young as well as old, have no traditional behavior to depend upon, but must choose among several possible ways of acting. The necessity for such a choice constitutes in itself a dangerous moral crisis. Since no period in history has seen such rapid social and economic changes as are seen to-day, it is to be expected that our moral problem would be exceedingly critical.

The difficulties arising out of changed conditions have been increased because of the dominant place which "romantic individualism" plays as a philosophy of present-day life. This philosophy emphasizes self-expression apart from service, and freedom without responsibility. In its extreme form it provides for the pursuit of immediate interests, often of a sensational sort, without regard either for others or for the individual's own future happiness. The teaching of one group of modern educational theorists fits into this philosophy all too well.

### WHY THE SCHOOL?

There are many reasons why the public should turn to the school as the chief agency for the improvement of morals and citizenship. Development of good citizens is the chief business of the school. It is a fundamental principle in sociology that the controls exerted by law and the police power are of little avail unless backed up by intelligent public opinion. The controls of the court and police are coercive, but coercive controls are effective only when coupled with educational controls.<sup>2</sup> The development of educational controls is the business of the public at large, the press, the church, and especially the school.

This special responsibility of the school arises from four facts: *first*, the school has the child under control for a very large part of his waking day; *second*, the public is convinced of the fundamental integrity and morality of the body of teachers and superintendents as a whole; *third*, schools are strategically located, that is, wherever there are people, there are schools; *fourth*, the school is more directly under the control of the state or of the community than is any other educational agency. For these reasons it is natural that the public should demand that the schools take a large share of the responsibility for developing better citizens.

This does not imply that the past efforts of public education in this field have been failures. Rather it implies that our schools have met with so much success relatively as to warrant asking them to accept a greater burden. No one who has followed the record of the behavior of children

<sup>2</sup> Cooley, Charles H.—*Human Nature and the Social Order*. Chapter XII. Charles Scribner's Sons. New York, 1902.

during the last twenty years can doubt that the management of children is on a higher level to-day than at any time in the past. Twenty years ago it was not uncommon for a teacher to be "run out" by boisterous and lawless pupils. Order was enforced only by the rod. To-day it is almost an unheard-of thing for a teacher to be "run out" of school. Children are in general well-behaved in school, and are so because of the training which they have received there.

And yet, there is no doubt that moral and civic education needs an emphasis which it has not received in the schools during the last generation. For a number of years there has been a feeling that not much could be expected as a result of the direct teaching of morals and citizenship. It was urged that children receive moral education incidentally through the other activities of the school and through the personality of the teacher. Some contended that matters of morals are too subtle and intangible to bear direct presentation. Accordingly, such schools as followed this point of view have given the impression of neglecting the teaching of morals and citizenship.

#### ORGANIZED MORAL AND CIVIC INSTRUCTION

During the last few years, however, there has been a growing conviction that moral education should be one of the important focuses of direct teaching, rather than that it should be left solely to incidental teaching. Those who hold to this belief are organizing moral and civic instruction according to one of the three following plans or some combination of them: *first*, a course of study organized around moral codes; *second*, a course of study organized about moral and civic ideals;

and *third*, a course of study organized around moral and civic situations.<sup>3</sup>

#### ORGANIZATION AROUND MORAL CODES

The following examples illustrate types of codes which are being used. The first is from "The Code of Successful Workers," prepared by the National Institution for Moral Instruction:

*I will educate myself into strong personality. I will develop force of character and have some worthy purpose in life. I will use my leisure wisely. I will be well informed, self-possessed, self-controlled, self-respecting, stable, open-minded and teachable, alert, observing. I will be quick to understand, and of good memory. I will use my imagination, and be ready to take responsibilities. I will gain knowledge of human nature, show sympathy, and take an interest in people. I will be friendly, cheerful, harmonious, and always tactful.*

The second is from the "Children's Code of Morals," prepared by William J. Hutchins:<sup>4</sup>

#### THE LAW OF RELIABILITY

##### *The Good American Is Reliable*

Our country grows great and good as her citizens are able more fully to trust each other. Therefore:

1. I will be honest, in word and in act. I will not lie, sneak, or pretend, nor will I keep the truth from those who have a right to it.

2. I will not do wrong in the hope of not being found out. I cannot hide the truth from myself and cannot often hide it from others.

3. I will not take without permission what does not belong to me.

4. I will do promptly what I have promised to do. If I have made a foolish promise, I will at once confess my mistake, and I will try to make good any harm which

<sup>3</sup> *Character Education Methods—The Iowa Plan.* National Capital Press, Washington, D. C.

<sup>4</sup> Hutchins, William J.—*The Children's Morality Code.* Character Education Institution, Chevy Chase, Washington, D. C.



my mistake may have caused. I will so speak and act that people will find it easier to trust each other.

However, in spite of the prominence which has been given to codes in moral and civic education, it is doubtful whether much reliance can be placed upon this plan of teaching morals, even if the learning of the codes is a culmination of considerable discussion. There is a tendency for pupils to feel that the mere saying of a code completes the course in training oneself for citizenship.

#### ORGANIZATION AROUND IDEALS

Dr. W. W. Charters, of the University of Chicago, holds that ideals can and should be taught directly.<sup>5</sup> Although organizing his course of study around ideals, Dr. Charters gives for each ideal a large number of situations and "trait actions." For example, the chief classes of situations given under honesty are: money; property; statements; promises; social relations; rules; directions; orders; games; class recitations; examinations; tests; and preparing lessons. The following detailed list of situations involving honesty in connection with statements illustrates how he uses situations to build ideals:

##### 1. You make statements about yourself.

- (a) You need an excuse for an unjustified absence from school.
- (b) You have done something for which you know you will be punished if you confess when questioned.
- (c) You are questioned about your lateness in arriving at school or in getting home from school.
- (d) You are asked why you are not prepared in your studies.
- (e) You are questioned by your parents about misconduct in school.

<sup>5</sup> Charters, W. W.—*Elementary School Journal*, Volume XXV, February, 1925, pp. 424-36 and March, 1925, pp. 507-17.

- (f) You want to go to a ball game, and there is a chance that you might be excused from school if you plead sickness.
  - (g) You are asked to report on the time spent in preparing a lesson.
  - (h) You are required to report on your outside reading.
  - (i) You forgot to clean your teeth, and the teacher asks, "How many cleaned their teeth this morning?"
  - (j) You are asked if you studied your lesson, and you merely glanced into the book as you walked to school.
  - (k) Many desirable activities at school are optional, and you can get your parents' consent to participate by telling them that they are compulsory.
  - (l) You have to account for your failure to get assigned work done on time.
  - (m) You are asked to tell of a personal exploit.
  - (n) You are gone a long time on an errand, and the teacher asks, "Where have you been?"
  - (o) Your new suit is ruined, and your father asks you how you did it.
  - (p) You receive help at home, and the teacher asks you if you have done your own work.
  - (q) You are asked if you enjoy poetry, music or art.
- ##### 2. You make statements about other people.
- (a) You accuse another person of some misdeed.
  - (b) You tell incidents about people who are absent.
  - (c) You are asked about the misconduct of a classmate.
  - (d) You are asked how you liked another person's clothes, speech or work.
  - (e) You quote what another person has said.
  - (f) You attempt to convey to other people the attitude of a certain person at a certain time.
  - (g) You dislike an individual, and you have an opportunity to make

statements reflecting on his character.

- (h) You are asked to give a statement concerning something on which you are not qualified to report.

### 3. Miscellaneous.

- (a) You are questioned about the disappearance of an article.  
 (b) You tell a story about things you are supposed to have seen.  
 (c) You tell what you have and do at home.  
 (d) Someone asks you for directions to a certain place, and you like to play jokes on people.  
 (e) You are asked the price of something you own, and you want it to seem very expensive.

### ORGANIZATION AROUND MORAL AND CIVIC SITUATIONS

An examination of the articles which Dr. Charters has published on this subject shows that the meat of his plan is the list of concrete situations. It is better, in the writer's judgment, to organize the course in moral and civic instruction around the chief classes of moral and civic situations. The conduct units involved in meeting these situations satisfactorily should be the beginning and the end of moral and civic instruction. In such instruction ideals play an important part, but they develop inductively out of a consideration of the concrete situations and therefore are incidental to the direct teaching of good conduct in these situations. Such a plan is not likely to degenerate into mere talk or empty generalizations about abstract qualities of character. It keeps the minds of teachers, parents and pupils upon conduct, which is the aim of all moral instruction. A critical study of an experimental trial of this method during the past two years indicates that schools may look with confidence to direct instruction organized about concrete situations as

a means of a definite improvement of moral and civic conduct.

Five important principles have been kept in mind in investigating the means of putting direct instruction into practice:

- (1) The curriculum in moral and civic education must be made by a scientific analysis and appraisal of the common and important moral and civic situations in life outside the school, and by the appraisal and selection of the best types of conduct in each of the important situations.
- (2) For the purpose of deciding what shall be taught at any stage in the child's development there must be an analysis and appraisal of the situations outside the school in which the child is placed at that period in his life.
- (3) There must be a scientific study of the effectiveness of various methods of teaching students to make right judgments and to develop right habits with respect to common and important situations.
- (4) Each item of conduct must be taught directly, and, as far as possible, in the setting in which it is found in life outside the school.
- (5) There must be some method of making an accurate appraisal of the results of instruction.

This article does not intend to give the impression that the problems of moral education have been solved, or that a practical working program has been developed. In fact, the scientific study of each of the major problems involved in the improvement of character has only just begun. The problem is so complicated and the difficulties so great that necessarily it will be years before a workable plan can be found in experimental centers and tested as to its practicability under the conditions which exist in public schools.

## UNIVERSITY RESEARCH WORK

The interest in this type of research is widespread, but is particularly keen at certain universities. At Columbia University Dr. Mark A. May and Dr. Hugh Hartshorne, investigators for the Character Education Research Inquiry in the Institute of Educational Research at Teachers College, and in co-operation with the Institute of Social and Religious Research, are at work on the problem of tests.<sup>6</sup> In the same institution Dr. Harold Rugg is producing a wealth of important data regarding the knowledge which should be possessed by intelligent citizens of the United States.

At Chicago University important analyses of moral and civic traits and trait actions have been made by Dr. W. W. Charters and Dr. Franklin Bobbitt of the College of Education. In the Department of Political Science of the same institution Miss Madge McKinney, working under the direction of Dr. Charles E. Merriam, is com-

<sup>6</sup> May, Mark A. and Hartshorne, H.—"Testing the Knowledge of Right and Wrong," *Religious Education*, Volume XXI, February, 1926, pp. 63-76.

pleting a most interesting piece of research in the analysis of characteristics of the good citizen.

At the University of Iowa Professor Edwin D. Starbuck, in charge of the Research Station in Character Education and Religious Education, has directed some valuable investigations concerning (1) the elements, mental and social, which are involved in character; (2) the use of comprehension and other tests to determine the adaptability of various materials to the maturity of pupils; and (3) to determine through controlled observation and testing the relative value of various methods of moral appeal. In the same university the Department of Elementary Supervision in the College of Education is gathering data regarding the most common and important social situations in which the problems of moral decisions and actions are involved. This department is also investigating the results of teaching children directly the right conduct for each important type of situation.<sup>7</sup>

<sup>7</sup> *Midland Schools*, Volume XL, November, 1925, pp. 84-5; January, 1926, pp. 139-40; March, 1925, pp. 215-17.

## Criminality and the Home

By VIVA B. BOOTHE

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FROM the legal point of view any act in violation of a law is a crime. Laws are the final expression of public opinion on various details of behavior. As such they have had their origin in the past experience of the group, and, as finally stated in legal form, they tend to exert a measure of control over the

future behavior of individuals who have to live under them. For the most part, in any society, laws which have grown out of the experience of the group tend to be respected and obeyed by the majority of the members of the group, because they have either participated in the formation of the laws or

have been convinced of the advisability of such controls once they have been established.

The majority of individuals in any given society keep their behavior within the law primarily because the law is in accord with the behavior of the majority. Majority behavior comes in time to be considered as proper behavior and individuals who differ in their behavior come to be considered detrimental. It is because of variation in the behavior of the minority within the group that laws are ever formulated, and the purpose of the formulation of laws is to make the minority conform. The process by which conformance is secured is that of stating the law, designating a penalty for its violation, and establishing machinery for the detection of breaches thereof and the apprehension of individuals believed guilty of such.

#### CRIME A CHANGING CONCEPT

There is no list of anti-social acts that have been regarded as crimes by all groups at all times. That which has been considered a crime in one age under given conditions may not be so regarded by future generations. Some few acts, such as murder, have been stigmatized as criminal under almost every social system and, as communities increase in similarity because of the rapid internationalization of culture, their legal and moral codes will tend to become more alike; but in the past, cultures have differed widely and ideas of crime have been many and varied.

Sutherland mentions a number of things that have been considered crimes at different times. Among them are: printing a book, professing the medical doctrine of the circulation of the blood, driving with reins, sale of coin to foreigners, having gold in the house, buying goods on their way to the market for the purpose of selling them

at a higher price. We are told by the same authority that it was a crime in Iceland in the Viking age for a person to write verses about another, even if the sentiment was complimentary, if the verses exceeded four strophes in length, and that the English villain in the 14th century was not allowed to send his son to school and no one lower than a freeholder was permitted by law to keep a dog. Slavery has not always been considered a crime even in this country. Duels have often been sanctioned and witchcraft was once punished by death. As late as 1820 in England the following acts were not only crimes but were punishable by death: gypsies remaining within the kingdom one month; unlawfully killing, hunting or stealing deer; taking fish out of any pond; injury to bridges; helping to the recovery of stolen goods; cutting down or destroying growing trees. Most New England states in the early days had as many as twelve capital offenses and Connecticut adopted the Mosaic Code as a part of her criminal law. Any violation of the ten commandments involved the death penalty.

It follows, too, that many of our present laws were unknown to earlier generations. Our Colonial forefathers knew nothing of factory laws, traffic laws, prohibition of intoxicating liquors, sanitary requirements, pure food laws, etc.

Every age, it would seem, has had its set of problems growing out of the process of living together, and each age has endeavored to standardize the behavior of the members of the group by setting up standards to be obeyed. For this reason there can be no hard and fast description of criminal behavior apart from the prevailing attitude of mind of the group. The crime problem in every age is, in its final analysis, a problem of adjustment. As such, "it involves both the individual and



the situation, and can be described only by taking into account the whole situation or the whole set of relationships."

#### THE CRIMINAL

The criminal in modern parlance is the individual who, for any reason whatsoever, has been proven guilty of violating the social code of the group as expressed in the criminal law. There is, of course, much criminal behavior that is never detected and probably very few of the more serious crimes result in arrest. It is equally true that many guilty are arrested who escape punishment altogether through the peculiar operations of our legal channels. Taking into consideration the discrepancy which exists between the number of crimes committed and the number of criminals apprehended, Eugene Smith evaluated the significance of the statistics of crime before the Prison Association of 1911 as follows:

Any criminal statistics that can possibly be gathered must relate to a part only, and doubtless a minor part, of the whole volume of crime, and there is no possible means of learning whether the magnitude of that known part varies in a direct or an indirect ratio to the rest of the volume.

In the eyes of the law only the individual found guilty of committing the act is considered a criminal. Whether he is more or less socially desirable than the anti-social individual who is still at large, the problem of understanding the behavior is the same. In either case an act of such a nature has been committed as to indicate that the individual has failed to adjust his behavior to the prevailing standards of the group. The reasons for the maladjustment may be many and to ask the why of anti-social conduct is to institute an inquiry into human behavior.

#### THE CRIMINAL AND SOCIETY

Criminal behavior from the mechanical side does not differ from any other kind of behavior. Like normal behavior it is the result of stimulation and response. The fact that the response is different points only to the fact that either the individual or the stimulus is different. The criminal is born a criminal only in the sense that he is born with less than normal potentialities for experiencing the world in which he lives. If he is endowed with normal potentialities his criminal behavior indicates the failure of the social environment to present the standards of the group to him in a convincing and successful manner.

As an individual the criminal is the product of forces over which he has had at best only limited control. His heredity was given to him by birth; his early environment is likewise inherited. Behavior standards of far-reaching influence on the future development of the adult are achieved long before the child has reached the age of independent judgment.

#### SOCIAL CONTROL AND THE HOME

In every social group the problem of transmitting the standards of the group to succeeding generations has been a serious one. On the success of transmitting formalized standards depends, to a large extent, the control that the group is able to exert over the behavior of the younger individuals within the group. The channels through which the social inheritance is transmitted are many and varied and it would be difficult to designate the most important. Without conscious effort a certain amount of continuity and solidarity would be achieved through the normal operations of sympathy and imitation. Most groups, however, have developed systems of formal education to insure that group solidarity which comes only

from common knowledge and experience.

In the educational system, the home has been, at all times and among all peoples, the chief institution through which group control has been exerted.

The home has had the social task of developing personalities adapted to the codes, standards and ideals of society, responding in socially useful ways to the situations which stir to activity the social emotions of fear, anger, love, joy, and learning the art of adjusting one's self to others.

It has been through this institution largely that habits and ideals of conduct in conformance with group standards have been formed in early life.

More recently the place of the home in the formation of conduct standards is becoming less and less prominent and the conscious inculcation of social standards is being left to the state and to systems of education outside the home. Whether or not there is more or less criminality, as a result of the failure of the home to fulfill its former function, cannot be determined with exactness, but there is some evidence to indicate that the present organization in many homes is not conducive to the development of satisfactory standards of conduct, and that, in part at least, the lack of supervision in the home is responsible for a large share of juvenile delinquency and even misconduct in adult life.

The immediate connection between the home and criminality is more readily seen in the case of juvenile criminals, perhaps, than in the case of adults, though without doubt there is more connection between the home and adult criminality than we have been in the habit of supposing.

#### JUVENILE DELINQUENCY AND THE HOME

Probably there is little justification for the statement that juvenile delin-

quency is increasing. The apparent increase may be due only to the fact that we are more concerned with the juvenile delinquent than ever before, and have more machinery in operation to discover and study him. At any rate we are beginning to know that delinquent children who come before the courts are very frequently products of poor home environments or no home environment at all.

Up to the present time most of the various methods devised to estimate quantitatively the influence of the home on delinquency are inadequate, as:

It is impossible to judge the conditions of parental supervision and control, or the relationship of parents to each other or to children, from observation of physical surroundings and objective data. The objective goodness of a home as measured by the presence or absence of material equipment is a poor test of home conditions. Parental conditions and parental supervision are much more important, and are much more closely correlated with delinquency than the other items. It is only as the objective items bear witness of the inability of the parent to assume such relationship to children that the physical aspects of a home become significant in connection with criminality.

A home that would be rated as good by standardized criteria may be instrumental in producing delinquency in a boy who is not adapted to the home. There are many types of such lack of adaptation.

It is impossible also to evaluate the influence of the home on the child apart from other institutions in the community, and apart from the physical and mental equipment of the child.

Among the methods devised to estimate quantitatively the influence of the home on delinquency probably the method of Healy is the best. He evaluated the influence of the home as a

factor after a general study of all the circumstances in the case and concluded "that home conditions were the major factor in delinquency in 19 per cent of the cases, and a minor factor in 23 per cent of the cases."

Sutherland presents the results of a study of fifty-two children in the ungraded classes of Public School No. 11, Manhattan, who were referred to social workers because of conduct difficulties in comparison with fifty-two selected at random from the entire population of the school.

COMPARATIVE FREQUENCY OF SPECIFIED HOME CONDITIONS IN A GROUP OF 52 CHILDREN WITH CONDUCT DIFFICULTIES AND A CONTROL GROUP OF 52 CHILDREN IN THE SAME SCHOOL \*

| Condition   | Conduct Group, Per Cent | Control Group, Per Cent |
|---|-------------------------|-------------------------|
| Father dead . . . . .                             | 26                      | 17                      |
| Father irregular worker . . .                     | 23                      | 19                      |
| Father immigrant, no English . . . . .            | 11                      | 3.8                     |
| Father alcoholic . . . . .                        | 11                      | 0                       |
| Father immoral, degraded . .                      | 3.8                     | 1.9                     |
| Father harsh, cruel, brutal                       | 5.7                     | 1.9                     |
| Father mentally defective, psychopathic . . . . . | 5.7                     | 0                       |
| Father chronic invalid . . .                      | 9                       | 9                       |
| Mother dead . . . . .                             | 5.7                     | 1.9                     |
| Mother works . . . . .                            | 36                      | 26                      |
| Mother immigrant, no English . . . . .            | 17                      | 13                      |
| Mother alcoholic . . . . .                        | 5.7                     | 0                       |
| Mother immoral, degraded                          | 3.8                     | 0                       |
| Mother harsh, cruel, brutal                       | 15                      | 0                       |
| Mother mentally defective . .                     | 3.8                     | 0                       |
| Mother chronic invalid . . .                      | 25                      | 13                      |
| Parents quarrel . . . . .                         | 11                      | 0                       |
| Parents separated . . . . .                       | 5.7                     | 3.8                     |
| Unsympathetic stepfather . .                      | 3.8                     | 3.8                     |
| Lives with grandmother . . .                      | 13                      | 1.9                     |
| Boarded out . . . . .                             | 1.9                     | 0                       |
| Home poor . . . . .                               | 73                      | 59                      |
| Neighborhood poor . . . . .                       | 50                      | 37                      |

\* From a study of Eleanor M. Johnson, cited by Sutherland in *Criminology*, p. 142.

From this limited study it appears that the delinquent children have a much greater number of undesirable home conditions than do the children in the control group.

As to the influence of the lack of any home experience upon the conduct of children, Miss Bingham reports that, of 500 delinquent girls in Waverley House in New York City, 240 had had previous institutional experiences. One hundred of this 240 had been in orphanages or other institutions for periods ranging from one to twelve years.

#### THE BROKEN HOME AND DELINQUENCY

Another check upon the influence of the normal home in establishing control over conduct is found in the correlation between juvenile delinquency and the broken home. The break in the home may not have been the cause of the delinquency, for both break and delinquency may have been due to economic conditions, alcoholism or other behavior traits. But from whatever cause the break may occur, it generally affects economic position and supervision and control of the children. If the break is due to the death, desertion or divorce of a husband, the economic standard of the family is usually impaired and the mother has to seek employment outside the home, leaving the children without supervision or with only the supervision of the older children. If the break is due to the loss of the mother, the children are again left without supervision, and in the low income group this means shifting the responsibility of family cares to the oldest daughter or the introduction of a stepmother.

Shideler has estimated that twenty-five per cent of all the children in the United States live in homes broken by death, divorce or separation, but that the studies of groups of delinquents show that from forty to seventy per

cent of them come from such homes. Miss Johnson reported that fifty-two per cent of the children with conduct difficulties came from broken homes, as contrasted with twenty-five per cent of the children not having conduct difficulties. Young found that fifty-two per cent of delinquents studied in Chicago in a certain district came from broken homes, as contrasted with seventeen per cent of the non-delinquents.

There seems to be some evidence that the broken home is a greater factor in producing delinquency among girls than among boys, especially if the home has suffered the loss of the father.

Without doubt the broken home is less efficient in developing and directing the normal desires and aspirations of childhood than the home in which both parents are working together to control the experiences of the children.

#### THE IMMIGRANT HOME

Nowhere is the effect of the breakdown of the home as a means of social control to be seen more clearly than in cases of delinquency of children born in this country of immigrant parents. Especially is this true of foreign-born parents whose language and cultural background is sufficiently different to make readjustment to their new environment well nigh impossible. In many cases the mothers have learned to speak no English and being segregated in the foreign quarter of some large city they make little progress in learning American ways and ideas. The children go out of the home and into the American schools to learn what most native-born children of native parents have a chance to learn in the home—American ideas and ways of doing things.

Under these conditions the children not infrequently become the teachers of their parents, and in many cases they

become interpreters of the American way of life as well. Thus the control which the parent exerts over the child in the normal family, where the parent continues the rôle of teacher and guide until rather late in life, is broken down and there is no other control to take its place. The child of immigrant parents is, therefore, in the position of discarding the ideas and attitudes of his parents which he has only partially learned to respect, and of being his own interpreter of the new standards which he is learning. The conflict thus arising between the old and the new in the home serves to make the break between parent and child more complete and the loss of the control of the parent over the child more certain. Fortunate indeed is the child, forced to mature under such circumstances, who reaches maturity without having been publicly delinquent.

In this connection Gillin quotes from a study made by Breckenridge and Abbott in Chicago. Of two hundred and eighty delinquent boys born of parents from other than English-speaking countries, it was shown that 15 per cent of the fathers and 28 per cent of the mothers about whom information was obtained knew no English at all, while a considerable number of the others, although able to speak brokenly, could neither read nor write. Moreover, this same study showed that 64 per cent of the fathers and 69 per cent of the mothers of these delinquent boys whose place of residence before immigration could be learned, in the old country had lived in rural districts or in small towns and, therefore, only about one-third of them came from cities or knew something of city life.

In general it is clear that children who get into the juvenile court come in more than their fair proportion from homes that would be ranked as "poor" or "very poor" as institutions of social



control. It is equally clear, however, that poor home environment is not the only determining factor when it is remembered that in some homes of that kind none of the children are delinquent, and that a great many delinquent children come from homes that would be classified as above the average.

#### CHILD LABOR

One of the accompaniments of the broken home and of poor home conditions in general is child labor. In the cities where careful studies have been made it is evident that certain forms of child labor produce juvenile delinquency—particularly street trades. The most comprehensive study of the influence of child labor on delinquency in this country was published by the Department of Labor in 1912. Studies were made of cases committed to reformatory institutions for seven cities. "These cases dealt with 4839 children of whom 4278 were boys and 561 girls. It was shown that 56.5 per cent of the boys were working at the time of their latest offense." The following table shows that there was a disproportionate amount of delinquency among those children who were working:

|                        | Proportion of Boys Delinquent |             | Proportion of Girls Delinquent |             |
|------------------------|-------------------------------|-------------|--------------------------------|-------------|
|                        | Working                       | Non-working | Working                        | Non-working |
| Indianapolis . . . . . | 6.7                           | 3.15        | 1.41                           | .31         |
| Baltimore . . . . .    | 2.87                          | .66         | .51                            | .02         |
| Boston . . . . .       | 15.71                         | 1.46        | 1.36                           | .08         |
| Newark . . . . .       | 3.74                          | .89         | .29                            | .04         |
| Philadelphia . . . . . | 1.66                          | .55         | .34                            | .04         |
| Pittsburgh . . . . .   | 6.56                          | 1.54        | 2.47                           | .14         |

Miss McIntyre, in a report regarding delinquents in the Manhattan Children's Court in 1916 and their status as employed or unemployed, said:

About 38 per cent had been employed prior to court proceedings, though only

about 10 per cent of the children of Manhattan in general were employed; these boys came almost equally from homes rated as good, fair or bad.

The working boys committed more serious offenses and had a higher percentage of recidivism; forty-three per cent of the workers were recidivists, and twenty-eight per cent of the non-workers.

Child labor is closely associated with the low income group. The lack of income and the desire for the things income will buy, plays a large part in juvenile delinquency, as is evidenced by the type of crimes most frequent among juveniles. By far the largest proportion of juvenile offenses are gainful offenses against property—larceny or petty larceny. In 1910, 33.4 per cent of all the commitments of juveniles were for such offenses, while 29.5 per cent were for incorrigibility and truancy, and minor delinquencies such as would be likely to result from the lack of personal supervision and control in the home.

#### POVERTY, DELINQUENCY AND THE AMERICAN HOME

Although poverty as such may not be the immediate cause of delinquency, it

is without doubt the cause of many of the conditions which have produced undesirable changes in the American home. The fact that wages have not always kept pace with the rising cost of living has made it impossible for the

wage-earning group to maintain a standard of living without supplementing the earnings of the husband and father with either the labor of the mother or of the children or of both.

In spite of our boasted national wealth and income and our so-called "higher level of wages," there are many families in the United States whose income from the male wage earner of the family is inadequate to meet even necessary requirements for a minimum standard of health and decency.

An analysis of the distribution of incomes among personal income recipients in 1918, made by the National Bureau of Economic Research, revealed the fact that of the 37,580,000 people earning incomes in 1918, 20,480,000 were earning less than \$1200 a year, which was \$300 less per year per person than the most conservative estimate of what the income should be to support a family of five in health and decency that year. To be sure all of the twenty million persons represented in this group were not heads of families. If, however, we suppose all the 8,346,000 women employed in 1918 were earning incomes of \$1200 or below—which of course was not the case, as many were earning more than that—and if we suppose that only half of the men were married, we find that there still remained over six million men, heads of families, earning an income \$300 below the standard set as a most conservative estimate of the minimum requirement.

If we credit these families with being average American families of five—their average is more likely to be seven than five—we find that over 30,000,000 people out of a total population of about 100,000,000 in 1918 were living in homes where poverty was ever present.

Assuming again a money income of

\$1500 to be the minimum income necessary to support a family of five in health and decency in 1918, it appears that the average annual earnings of labor for all American industries was nearly \$400 below the necessary requirement. This deduction is drawn from the study of wages and income in the various industries made by the National Bureau of Economic Research and reported in the book, *Income in the United States*. Of the eleven industries for which average annual earnings of laborers are given, it appears that in only one industry—transportation by water—were the wages paid sufficient to maintain such a standard. The average annual earnings for the laborers employed in the various industries as reported for 1918 were: agriculture, \$590; production of minerals, \$1283; factory manufacturing, \$1148; hand trades, \$1194; street railways, electric light and power companies, \$878; transportation by water, \$1590; banking, \$1461; government, \$895.

In 1921, according to the report of the Department of Labor on wages and hours of labor in the bituminous coal mining industry in twelve states, it appears that in only three of the twelve states were the yearly earnings as much or more than \$1500, while in four states they were below eleven hundred dollars. In Pennsylvania, which employed almost 10,000 bituminous coal miners in 1921, the average annual earnings per laborer were only \$1197 as reported in the *Monthly Labor Review* for April, 1922.

It is not necessary to multiply examples to make it clear that, because of our present system of distribution of wealth, it is becoming more and more necessary for mothers of families to supplement the earnings of the husband and father by seeking remunerative employment outside of the home.

## WOMEN IN INDUSTRY

In 1920 there were 8,346,000 women gainfully employed in the United States. Of this number 1,920,000 or twenty-three per cent were married. This means that in almost two million homes in the United States the interest of the mother was divided between home making and employment outside of the home. Many of these two million were not mothers, but there were enough mothers in the number to account in large measure for the disintegration in home organization among the lower income group especially.

Although the statistical proof is as yet fragmentary, there is enough evidence from such observations as have been made to indicate that there is more than a casual relationship between juvenile criminality and the organization of the home.

It is not alone among the poor that

the maladjusted child appears, although it is the maladjusted child of the poor who most frequently comes under observation through the juvenile court. Students of child psychology are discovering that juvenile mental conflicts sufficiently great to produce misconduct are found among the children of the middle and upper income groups as well. As Dr. Van Waters says, the home that is a "place where the interests of childhood are secondary to business, pleasure or personal ambition is potentially a delinquent producing home." The goodness or badness from the point of view of its delinquency-producing tendencies depends upon its adaptation to the needs of the child concerned—not necessarily upon objective considerations, only in so far as they help to foster or retard the development of sympathetic understanding between parent and child.

## The Church and Crime in the United States

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## I. THE PROBLEM STATED

THE problem of crime is one of our country's most serious problems. The writer does not believe that this problem can take second place either to the social or to the labor question, as important as either of these questions is. On the other hand the Church constitutes a powerful element in American civilization. None, perhaps, is more powerful. If crime is increasing, or even if it is not, it is time for the Church to be taking serious notice of it. What is the relation of the Church to the problem of crime as this problem is presented in the United States?

In the preparation of the following brief treatise, considerable correspondence was carried on with ministers, judges, prison officials and others. Many prison records were examined and a careful attempt made to ascertain the truth both as to the Church and as to crime. In this first section we can do no more than state the problem.

How great is the problem of crime, and how great is the power of the Church? We shall consider first the extent of crime in the United States.

In this country more than one hundred different acts are classified as criminal. However, there is no one

standard in all the states for characterizing certain acts as criminal, and therefore what may be considered a crime in one state may not be considered a crime in another. Still the uniformity is very general, sufficiently so for drawing conclusions.

An examination of the records of twenty state prisons showed larceny taking first place, burglary, second, murder, third, and assault to kill, fourth. Following is the tabulated result of the examination of the twenty state institutions, the figures referring to the number of institutions:

|             | State  | County | City   |
|-------------|--------|--------|--------|
| Male.....   | 75,465 | 41,463 | 19,385 |
| Female..... | 3,208  | 2,820  | 2,250  |
| Total.....  | 78,673 | 44,283 | 21,635 |

of the most important phases of the question is that of the juvenile offender. At the time of the above investigation in ninety-three institutions—reformatories, industrial schools and the like—there were enumerated 23,034 delinquents between seven and

| First Place                         | Second Place   | Third Place  | Fourth Place   |
|-------------------------------------|--|--|--|
| 9—Larceny<br>5—Burglary<br>5—Murder | 8—Burglary<br>4—Larceny<br>3—Manslaughter<br>2—Forgery<br>1—Assault to kill<br>1—Rape<br>1—2nd degree murder | 4—1st degree murder<br>1—2nd degree murder<br>4—Forgery<br>3—Robbery<br>2—Theft<br>2—Manslaughter<br>2—Arson<br>1—Assault<br>1—Breaking and entering | 4—Assault to kill<br>3—Theft<br>3—Robbery<br>2—Assault to rape<br>1—Murder<br>1—2nd degree murder<br>1—Manslaughter<br>1—False entry<br>1—Abuse of minor female<br>1—Attempt at murder<br>1—Forgery<br>1—Assault and battery |

In 1922 the Department of Commerce of the United States Government sent inquiries to 6439 institutions, Federal, state and county, and certain institutions mainly under the control of religious, charitable or welfare organizations, to the care of which women offenders are in some cases committed by the courts.

The following table shows the number of male and female prisoners in the state, county and city institutions July 1, 1922. No figures are given for the Federal penitentiaries for the reason that on that date all those confined in these institutions were males.

In the consideration of crime, one

twenty-one years of age. These were classified as follows:

|              |        |
|--------------|--------|
| Male.....    | 18,177 |
| Female.....  | 4,857  |
| White.....   | 19,872 |
| Colored..... | 3,162  |

In *The World's Work* for June, 1924, the editor, under the caption, "Eighty Per Cent of All Crimes Committed by BOYS," cites George W. Kirchwey, former warden of the Sing Sing Prison, as authority for the statement that "Approximately half the convicts in Sing Sing Prison are under twenty-five years of age, and eight out of ten are under thirty."



## THE NON-CONVICTED

It must be remembered that the criminals and the crimes enumerated at any given time represent only a small portion of the criminality in our country. Prison population is very transient. Of our prisoners only 0.4 per cent are committed for life, 6 per cent are given indeterminate sentence, 0.6 per cent are sent up for fifteen years and over, 0.7 per cent from ten to fourteen years, 0.8 per cent from six to nine years, 1.4 per cent for five years, 0.7 per cent for four years, 1.8 per cent for three years, 2.9 per cent from two to two and one-half years, 5 per cent from one to one and one-half years, while 29.4 per cent are in for less than one year. It is evident, therefore, that a considerable proportion of our criminal population are not in prison at any given time, even if we omit those who have been dismissed and are now living decent lives.

In the Report of the Special Committee on Law Enforcement, of the American Bar Association, at their Annual Meeting in Minneapolis, August 29-31, 1923, it is stated that the Committee estimated that in 1922 there were more than 9500 unlawful homicides; in 1920 not less than 9000; and in no year in the past ten years did the number fall below 8500.

In Chicago alone in 1919 three hundred citizens were murdered by resident criminals; 6108 burglaries were committed, 2912 robberies, and 4447 automobiles were stolen. It is estimated that the property loss from thefts alone in Chicago that year exceeded \$12,000,000. According to statistics compiled by the secretary of the state of New York, as given in the *World's Almanac* for 1923, there were 13,961 crimes committed in the state of New York in 1921. According to the report of the Committee on Crimi-

nal Courts of the Charity Organization Society of the city of New York for the years 1911-17, there are 1,240,000 criminal cases in New York City each year and 12,000 children pass through the Children's Court.

Nor is this all. The above considerations relate only to those crimes for which the criminal has been convicted. There are crimes, and the number is by no means negligible, for which the criminal has never been convicted. There are two classes of these: first, where the criminal is unknown; second, where the criminal is known but not committed to prison. As to the first of these Boies says:

It is a common observation, also, that many crimes are committed for which no arrests are made, which must be charged against the criminals at large. Besides the crimes which are publicly known, there is a large number of secret, hidden and undetected crimes, which remain unknown to the public: such as small thefts, misdemeanors, sexual crimes, violations of license laws, drunkenness, gambling, frauds of all kinds, cheating in trade, bribery, perjury and political corruption. The existence of these is notorious, but for various reasons they cannot be legally proved, or are, at least, not attended by arrest and conviction. Statistics of arrests and convictions are the legal evidence which appear on the surface, the scum arising from the continual ferment going on in the social sediment.<sup>1</sup>

It must be evident to every thinking person that this statement is true. Many minor offenses and some major ones never come to light.

As to the second class, where the criminal is known but not committed to prison, the case presents itself in three aspects: First, where the guilty one is tried and convicted, but escapes imprisonment by the payment of a fine, by the suspension of sentence or by some other form of leniency; second, where the case is reported to the police,

<sup>1</sup> *Science of Penology*, p. 9.

but goes no further; and third, where the case is known but not reported.

Now, it is manifestly impossible to tell the number of these non-convicted criminals. At best only a rough estimate can be made. Boies believes that only about one-tenth of our criminal population is in confinement at any one time.<sup>2</sup> It is probable that about two per cent of our population is criminal—one out of fifty. Think of it! Two million criminals in this country. These figures are appalling.

#### THE COST OF CRIME

The cost of crime is beyond comprehension. The estimates of the cost of crime vary considerably, depending in some measure on what is included in the term "cost." It may include only the actual cost of the trials; it may include, also, the expense of keeping prisoners in confinement; besides these, it may include the wealth criminals would produce were they not criminals. Since specification is rare, it is impossible to tell how much is included in a given estimate. In a recent article in the *Literary Digest* (June, 1924) it was stated that the annual cost of crime in the United States is ten billion dollars. The writer goes on to say that this amount is two and one-half times the total ordinary receipts for 1923, or three times the national budget for the same year or three times the customs and internal revenue receipts or twelve times the cost of the Army and Navy. If the above estimate is correct, the citizens of this country suffer a loss each year sufficient to erect six hundred and eighty-eight capitol buildings such as that at Washington or fill the national library two thousand one hundred and thirty-six times at the rate of two dollars per volume. It would support 6,666,666 families, or 33,333,330 persons for one year at the

rate of \$1500 for each family. This is nearly one-third the population of the United States. *We spend more money on crime than on education.* These facts ought to set every American citizen to thinking.

#### IS CRIME INCREASING?

There is another inquiry quite as important as that probing into the extent of crime. It is the question, is crime increasing? Some one has said that it does not matter so much *where* we are as which *way* we are going.

Which way is this country going as to the commission of crime? Is crime increasing, decreasing or maintaining a level?

In 1850 there were 250 criminal prisoners to 1,000,000 of population; in 1912, about 1400; and in 1922, 1500. The following is a more complete table:

| Year                  | Prisoners to<br>100,000<br>Population |
|-----------------------|---------------------------------------|
| 1850.....             | 25.0                                  |
| 1890.....             | 106.7                                 |
| 1904.....             | 100.6                                 |
| 1908 (estimated)..... | 166.8                                 |
| 1912.....             | 140.0                                 |
| 1922.....             | 150.0                                 |

It should be remembered that increase in crime may be real or only apparent. There may be more commitments to prison while crime is really decreasing and vice versa, and hence statistics may lead to wrong conclusions. But when carried through a series of years, and when the difference is sufficient to allow for changes in circumstances, statistics form a fairly safe basis for conclusions.

Apparent increase in crime may be due to several causes: greater vigilance, greater severity and thoroughness in the administration of the courts, changes in economic conditions, changes in laws, and others. This last is of

<sup>2</sup> *Ibid.*, p. 7.

considerable importance. Quoting from Mr. Eugene Smith:

For example, in the year 1890, the number of convictions for drunkenness in Massachusetts was 25,582; two years later, the number had fallen to 8,634. An amazing diminution of drunkenness in Massachusetts—nearly 70 per cent? Not at all; it was owing to a new statute passed in 1891, the effect of which was that only those arrested for the third time within a year were subject to conviction.

This rule works the other way, also. New laws are made stamping as criminal certain acts not previously considered criminal. Other conditions remaining the same, more arrests will follow, and what seems to be an evidence of the increase in crime is really an evidence of a higher state of society.

The Special Committee on Law Enforcement of the American Bar Association, referred to before, reported that from 1910 to 1922 the increase of the criminal population was 16.6 per cent, while the general increase of population was 14.9 per cent. From July 1, 1917 to July 1, 1922, according to the Census Bureau there was an increase of 2.6 per cent in prisoners in all areas reporting on crime.

Winifred Black stated in 1912:

There is no getting away from the fact that juvenile crime is terribly on the increase. There is a juvenile court in every city of any size in the country, and every docket of every juvenile court is full to-day to bursting.

When the Juvenile Court of Chicago first opened its doors twelve years ago, there was plenty of time to try every case brought before the judge, and to try it carefully, and with every chance of justice to all concerned. Judge Pinkney, now of the court of Chicago, is so hurried these days that he gives, on an average, fifteen minutes to each case brought before him—and in the last year he has tried five thousand cases.

You can't throw a stone in any large town from one end of this country to the other without hitting somewhere and some-

how a *home for wayward girls*, and the land is dotted all its length and breadth with *reform schools for unruly boys*.

The *Chicago Tribune* estimated that from 1885 to 1911 the number of homicides increased from 32.2 to 88.7 for each million of population. The ratio seems to be a little lower now. The Special Committee on Law Enforcement made the following statement (1923):

There has been and continues a widening, deepening tide of lawlessness in this country, sometimes momentarily receding, but swelling again into greater depths of intensity; at intervals this tide billows into waves that rise and break, but only for a time attracts attention.

From the above facts it seems that there is but one conclusion to be drawn, and that is that crime is increasing, and this seems to be the opinion of most students of the subject. But crime may increase absolutely or relatively. It increases absolutely when the number of crimes increases without regard to population; it increases relatively when it increases faster than the population. The most alarming thing about this question of crime is that it seems to be increasing relatively.

#### COMPARISON OF CRIMINALITY WITH OTHER COUNTRIES

How does the extent of crime in the United States compare with that in other countries? The report of the Special Committee states that in 1922 there were 17 so-called murders in London; in all England and Wales in 1921 only 63 murders; in all France in 1919 there were only 585 murders; and in New York City alone in 1921 there were 260 murders. In 1921 in all England and Wales there were 95 robberies; in 1919, 121 in France; in 1922 there were 1445 robberies in New York City and 2417 in Chicago. According to *The Spectator*, an insurance publication, there were 1887 homicides in the

28 largest cities in the United States in 1922. Congressman Burton is authority for the statement that

in the year 1918 there were 222 homicides in the city of Chicago, against 154 in all of England and Wales, and six times as many as in the city of London. . . . The most unfavorable comparison of all is in the crime of robbery, including assaults with attempt to rob, and hold-ups, as they are termed. The exceptionally orderly city of Washington in a single year reported four times as many robberies as London, and Los Angeles more than all in England, Wales and Scotland.

To quote once more from the Special Committee: "The criminal situation in the United States so far as crimes of violence are concerned is worse than in any other civilized country." Certainly this is not a compliment to our civilization.

The enormous amount of crime in this country, the probability that it is on the increase and the fact that we compare unfavorably with other countries should make us pause. Surely it is a time for meditation and action. Have we a problem here we cannot solve? Is our civilization inadequate to cope with the situation? The American citizen must answer these questions.

#### THE POWER OF THE CHURCH

The problem of crime in this country having been briefly stated, attention is now called to one of the chief forces that must help in its solution—the Church. Without arguing the point, and assuming that the Church is to have a part in the work, as we are sure all thinking men believe, whatever may be their ideas as to the method, let us briefly review her power.

The *Year Book of the Churches*, issued by the Federal Council of Churches of Christ in America, includes the following statistics for the United States:

|                     |            |
|---------------------|------------|
| Churches.....       | 243,578    |
| Ministers.....      | 214,385    |
| Members.....        | 47,407,251 |
| Sunday schools..... | 204,464    |
| S. S. members.....  | 25,189,419 |

These statistics include both Roman Catholic and Protestant churches. The statistics for the Roman Catholics are as follows:

|                     |            |
|---------------------|------------|
| Churches.....       | 16,615     |
| Ministers.....      | 22,040     |
| Members.....        | 18,104,804 |
| Sunday schools..... | 15,642     |
| S. S. members.....  | 4,332,561  |

It should be noted here that the Roman Catholic Church counts membership from the time of christening, which is usually in infancy. Of the 47,407,251 members of the churches, perhaps not more than 32,000,000 are in active service. Many are only nominal members. Many are too young to take much active part in the church. But 32,000,000 members constitute a mighty force. It is more than ten times the population of the thirteen colonies when they fought the War of Independence and won. There are forty times as many churches as penal and reformatory institutions in the United States, and the working force of the Church is sixteen times the estimated criminal population. The average number of prisoners in each institution is thirty-nine and the average membership of each church is one hundred and ninety-four.

The working force of the Church would form a solid square more than two miles each way, allowing four square feet for each man. If placed in line three feet apart they would reach more than 18,000 miles, six times the distance across the United States from Maine to California or more than half way around the world. It would require a year and sixty-nine days for them to pass a given point at the rate of four miles an hour, walking ten hours a day. This is a tremendous force.



Besides these there are hundreds of thousands of members of the Sunday Schools, who, though not members of the Church, are indirectly connected with the Church and are on the side of righteousness.

Are these church forces able to cope

with the criminal situation in our land? Or are they able to make such a contribution as will, with other forces, effect a solution of the crime problem? And if they are, will they arise to the responsibility? And if they do arise, what course should they pursue?

## II. THE CHURCH, A CURB ON CRIME

The investigation of this subject has been made through three sources: prison records, the Christian ministry and the courts. We shall take these up in their order.

### TESTIMONY OF PRISON RECORDS

Of 25,726 persons imprisoned in twenty-seven state penitentiaries, 6028 professed Roman Catholicism and 13,854, Protestantism. These constituted 77.3 per cent of the whole number. The remaining 22.7 per cent was made up of Jews, Mormons and others; also of a few foreign cults and of many who professed no religion.

Of 7108 in nineteen reform schools, industrial schools and the like, 1343 professed Roman Catholicism and 2345, Protestantism—an aggregate of 3688, or 51.9 per cent. Adding for these two classes of institutions, it is found that in a population of 32,834, 7371 professed Roman Catholicism and 16,199, Protestantism, making 23,570 in all, or 71.8 per cent of the

entire population. These forty-six institutions represent twenty-eight different states located in all parts of the Union, and hence these religious conditions may be taken as a fair index to the religious conditions in all our institutions, and, we believe, to the whole criminal population. The results of this investigation are tabulated below.

Do these facts teach that the great majority, 71.8 per cent, of our criminals come from our churches? If so, the churches produce more than their share; for, even by counting the total membership of the churches as 47,000,000, this is a little less than 43 per cent of the population. Does 43 per cent of the population—and that the church membership—produce 71.8 per cent of the criminals? This is incredible. Two considerations will relieve us of this difficulty: (1) Large numbers of those who count themselves Protestants were never members of any church. Protestantism does not necessarily involve church membership. (2) A

| Institutions                                | Total                    | Roman Catholics          | Protestant                | Total Roman Catholics and Protestants | All Others               |
|---|--------------------------|--------------------------|---------------------------|---------------------------------------|--------------------------|
| 27 state penitentiaries                     | 25,726<br>(100 per cent) | 6,028<br>(23.4 per cent) | 13,854<br>(53.9 per cent) | 19,882<br>(77.3 per cent)             | 5,844<br>(22.7 per cent) |
| 19 reform, industrial and other schools . . | 7,108<br>(100 per cent)  | 1,343<br>(18.9 per cent) | 2,345<br>(33 per cent)    | 3,688<br>(51.9 per cent)              | 3,420<br>(48.1 per cent) |
| Grand total . . . .                         | 32,834<br>(100 per cent) | 7,371<br>(22.5 per cent) | 16,199<br>(49.3 per cent) | 23,570<br>(71.8 per cent)             | 9,264<br>(28.2 per cent) |

considerable portion of those who are or have been members cannot be counted as active members. Some joined in infancy. Many others have been only nominal members. Besides these considerations, no doubt some called themselves members when only their parents were members.

#### TESTIMONY OF THE MINISTRY

Chaplains of the penitentiaries were asked if any of the prisoners in their institutions had ever been active members of the Church. It was found that very few institutions had any records on this point. Five answers were received as follows:

| <i>Prison Population</i> | <i>Active Church Members</i> |
|--------------------------|------------------------------|
| 1,600                    | 200 (1:8)                    |
| 900                      | 160 (1:5.6)                  |
| 213                      | 1 (1:213)                    |
| 250                      | 1 (1:250)                    |
| 2,963                    | 362 (1:82)                   |

According to this calculation the active church membership furnishes only one twenty-fourth of its proportion of criminals. But it is unsafe to draw conclusions from such a meager basis. The writer once visited the West Virginia Penitentiary at Moundsville and was told that after careful investigation only two out of a population of more than twelve hundred had ever been active church members.

The question was asked of a considerable number of ministers from all parts of the country whether any persons who had ever been members of any of the churches of which they had been ministers had turned out to be criminals. They were asked to answer according to their present knowledge without investigation. The average length of the ministry of those from whom replies were received was twenty-two years, and the average number of churches they had served was six. The large average number of churches is accounted for by the fact that several

of them had had circuits including many churches. It is evident, therefore, that the ministers were men of wide experience. Some of them were prominent in their fields.

Fifty-eight answers were received as follows: twenty-two answered positively "no"; thirteen answered "yes." The greatest number of crimes reported by any one minister was four. The crimes reported were as follows:

|                  |   |                   |   |
|------------------|---|-------------------|---|
| Immorality.....  | 8 | Forgery.....      | 4 |
| Murder.....      | 5 | Embezzlement..... | 4 |
| Theft.....       | 9 | Non-support.....  | 1 |
| Defalcation..... | 1 | Robbery.....      | 2 |

There were three suicides. This is a wholesome record. Fifty-eight ministers with an average ministry of twenty-two years knew of only thirty-seven crimes (suicides included) having been committed by members of their churches. We do not pretend that these were all the crimes committed: and those who answered "no" may have been mistaken, i.e. there may have been crimes committed of which they knew nothing, such as sexual crimes, and thefts.

All this taken into account, we are still justified in concluding that with these ministers, crime in their parishes had been reduced to a minimum, and because these reports came from all parts of the country, it seems fair to conclude that there is much less crime in the membership of the churches according to number than in the remainder of the population. The words of a Texas minister, in reply to an inquiry, seems to us to express a general truth:

I was three years pastor of the Methodist Church in Rusk, Texas, where the East Texas Penitentiary is located, and frequently preached for the convicts. I investigated the subject you are looking into then and found that most of the prisoners who were church members had either joined the church after they got in trouble,

or they joined in childhood and had poor instruction in religion and bad environment.

#### TESTIMONY OF THE COURTS

As all convicted criminals go through the courts, it is especially enlightening to know their testimony in regard to the relation of the Church to crime. Judge Cleland of Chicago informed the writer as follows:

I established some few years ago the "Parting of the Ways Home" in this city, where we receive men from our House of Correction whom we board and clothe and for whom we obtain employment. We have had up to this time something over three thousand men. We investigated the religious affiliations of one thousand in order to give us an average. We ascertained that of this number the religious affiliations were as follows:

| Per Cent              | Per Cent              |
|-----------------------|-----------------------|
| Catholics.....49.6    | Disciples.....1.4     |
| Methodists.....12.7   | Reformed......5       |
| Baptists.....9.4      | Christian Science..3  |
| Lutherans.....8.9     | Unitarian......3      |
| Presbyterians.....7.3 | Evangelical......2    |
| Episcopalians.....5.8 | Christian Catholic..1 |
| Congregational....1.8 | Nazarene......1       |
| Jews.....1.5          | United Brethren..1    |

Exclusive of Jews, this gives 49.6 per cent as Roman Catholic and 48.0 per cent as Protestants. No percentage is left for those who made no profession. But it is impossible to tell how many of these were ever actively engaged in church work. Mere nominal membership counts for little. Still we cannot doubt that some of these were some time in their lives active church members.

The probation officer of a California court writes in these words:

Over half of our Juvenile Court wayward children have at least nominal church connection. Of our adult felony probationers about four-fifths have no active church connection, but most had Sunday School and then nominal church connection once.

Some have even grown up without knowing what the Gospels are, and some few

have never been inside a church. It is clear that a man who really belongs to a church, actively, is a conserving and conservative member of the community. He is also economically better off than the men who become through weakness criminals.

The boy may go to Sunday School and his people have no church connection. No home backing for Sunday School teaching.

On the whole for a boy or girl to have active Sunday School connections, or for a man or woman to have active church connections, gives, I think, an advantage of two or three to one, against the likelihood of becoming wayward or criminal, and yet I have some ministers' sons on probation for felonies.

Judge Lewis L. Fawcett, of Brooklyn, N. Y., writes as follows:

You make the inquiry whether I have kept a count of the young people sent by me to Sunday School, and on that point may I state that in every case where I suspend sentence on a boy I insist, if he be a Protestant, that he go back to the Sunday School and continue in attendance until he be at least twenty-one years of age. If he be a Catholic, that he join the Holy Name Society or other organization of the Catholic Church of his community and become a practical Catholic, by that I mean one who attends Communion and the Masses; and if he be a Hebrew that he attend all Temple or Synagogue Services, until he at least attain manhood estate.

During the six years that I have been on this bench my suspended sentences have exceeded 300 boys and more than 325 men, and less than five per cent of those to whom the encouragement of impunity has been given have been returned to the court for violation of parole or the commission of subsequent offenses. . . .

During my term on the bench there has not been a boy convicted of a crime who has been a member of or attended at Sunday School at the time of the commission of the offense. I hold that the church is the real curb on crime, and I may add to the aforesaid that of all the adults who have been convicted, not one has been an active member of any church. It seems to me that if boys can be controlled and guided and held

by the church influences during the formative periods of their lives, during their teens between the ages of twelve and twenty, there need be little fear of their going wrong subsequent to that time.

Judge Fawcett, as quoted in the *Literary Digest* from the Boston Congregationalist, says:

Approximately 2,700 cases have been brought before me in my five and a half years of service on the bench. During all this time I have never had to try a man who was at the time of the alleged offense, or ever had been, an active member of the church.

I have asked each young defendant if he was a member of or an attendant at Sunday School, and I have never been answered "yes." I believe in Sunday Schools. When by means of suspended sentences or merciful devices I have seen fit to give prisoners opportunities to lead better lives in freedom, I have in every case insisted that the first thing they must do is to join a Sunday School.

Hon. Robert J. Wilkin, of the Juvenile Court of Brooklyn, said:

I cannot see how immoral or unreligious people can be decent law-abiding people.

The record of a Chicago judge for two years showed that no divorces had been granted to any persons where both persons belonged to the same church and attended services regularly. A Kansas City judge gave out a similar report recently.

Judge Lindsey writes, speaking of a majority of our criminals:

They can be re-made as easily as the "River Front Gang" was re-made if we would use the methods of Christianity on them and not those of a sort of fiendish paganism that exacts "an eye for an eye," and exacts it in a spirit of vengeance.<sup>2</sup>

In a fine article by Judge Kavanagh, Judge of the Superior Court of Chicago, published in the *Seattle Post Intelligencer* of December 28, 1924, the judge writes:

<sup>2</sup> *The Beast*, p. 149.

But the law absolutely needs for its success and merciful functioning the aid of religion. The church influence can never supplant (evidently a misprint) to be as effective as the home influence, but religion can create and maintain the safe and normal influence. In lands where churches are full the prisons are empty; where the churches are empty, the prisons are full.

Seventy-five years ago this nation was the most law-abiding country on earth. We had twenty-three millions in population, but all our prisons, great and small, contained, tried and untried, only seven thousand persons. Everyone went to church. I am fully aware of the sneers with which these claims will be met by all the pseudo-scientists who are writing on this subject. Very few of them in all their lives have ever talked confidentially for half an hour with a criminal. Against their lack of practical experience I place the evidence of every worthwhile prison warden, of all well-known police officers, and that of men who, above all others, know the inner mind of the criminal—the prison chaplains.

The prison reports contain tables showing the creeds of the convicts and most of them report themselves as Catholic, Protestant or Jewish, but each of them, long before he turned criminal, had abandoned his faith.

This was necessarily true, because before one becomes a criminal he must first stifle his finer emotions, and religion is the protector and the nurse of the finer emotions. These emotions build the first barricade against crime in the human mind, and the heaviest cost for crime is paid in penalty, not by the physical bodies of the convicts against which sentence is pronounced, but by the mangled and agonized emotions of all concerned for him. . . .

How is it that the churches of America have lost their grip on so many troubled millions? Is it because the ministers of our religion have grown satisfied with the mere routine and mechanical work of their calling? Sermons are not so much needed by the tempted as the personal touch. The oldtime clergyman who sought out and understood the needy homes and who talked with the tempted girl and boy, so



far as prevention of crime was concerned, lived a life worth a dozen of those of the eloquent scholars in the pulpit.

Such is the testimony of the courts. It shows conclusively that Christianity is not a crime-producing, but a crime-preventing religion, and that the Church, though far from ideal, is not a crime-producing, but a crime-preventing institution. To quote Judge Fawcett again:

I herewith inform you that if the teaching of the churches were followed there wouldn't be any crime. The church is the real curb on crime and the greater the activity of its pastors and workers, the more society will benefit.

If the Church produced criminals according to the entire population she would produce one in every fifty of her membership. Using the answers of the five prison chaplains as a basis, the number is one out of every one hundred and fifteen. Using the report of the ministry as a basis, and supposing they were preaching for the average church membership (125, including chapels and missions), she produces one criminal for every one hundred and fifty-six of her membership. This, of course, is not a fair estimate, as most of these ministers are preaching for good-sized churches.

The evidence of the courts reduces

the number still more. Judge Fawcett's experience reduces it to zero. This, however, cannot be taken as a rule everywhere. Some active members of the Church do become criminals, but the number is very small, perhaps not more than one in a thousand. That criminals are not expected to come from the active church membership is shown by the unusual astonishment when such a person does become a criminal, as in the case of the noted Richeson. That religion which has caused men to die for liberty and the best interests of mankind is not a criminal-producing religion. On the contrary, it is the great power that has kept crime down. It is the "real curb on crime," as Judge Fawcett puts it. The words of the Boston Congregationalist are fitting here:

Most of our respectable, attractive communities of high moral tone are so because the Church of Christ is there. Our beautiful towns are what they are, instead of being hotbeds of vice, drunkenness and crime, because the Church is there. Church members are not usually criminals, whatever else they are. Neither are all non-church members criminals, but the vast majority of criminals come from their class. Were not the town predominantly Christian crime would make it impossible as a home. . . . The stronger the Church is, the cleaner, healthier, safer, happier, more respectable the town.

### III. THE CAUSES OF CRIME

For our purpose we divide causes into two classes: First, those for which the criminal himself is partially, chiefly or wholly responsible; second, those for which society is partially, chiefly or wholly responsible. These, of course frequently overlap, and cannot therefore always be clearly distinguished. Nor is it always possible to tell whether society or the criminal is chiefly responsible. But the classification suffices

for our purpose. In this discussion, we must be content with conclusions rather than with processes of argument by which the conclusions are reached.

#### (1) WHERE THE CRIMINAL IS RESPONSIBLE

(1) *Poverty*.—There can be no doubt that poverty is a cause of crime, nor that it is a condition produced frequently by industrial situations. This in-

dustrial question will claim consideration later. In our investigations it was shown that more criminals come from the laboring classes than from any other, 30 per cent of all. However, it must be remembered that the laboring class is very large in this country. Still the criminals from this class are out of proportion to the class. From laborers and servants come one-half of our criminals, and these are, of course, the poorer classes. While many other causes enter in to make laborers criminals, poverty, it is pretty generally agreed, is a cause of crime. Where the criminal himself is responsible, his poverty may be due to his physical or intellectual inability to secure a paying position; or he may make good wages and squander them through personal habits or bad management; or unavoidable misfortune may come upon him. Whatever the cause, he becomes poor, and he will steal rather than starve. Theft is the one great crime of the poor. Larceny, which has been shown to be the most frequent crime, is the handmaid of poverty. Ferri believes that crimes against property reach their climax in the winter months. Cold and hunger will drive men to theft.

(2) *Passion*.—Some men have uncontrollable tempers. When provoked by injustice or disappointment they become abject slaves of temper, especially if incited by liquor, and commit criminal acts which they afterward deeply regret. Here passion is a secondary cause, but nevertheless a cause. Disappointment in securing an office inflamed the passions of Charles Guiteau and was a part of the cause of the assassination of President James A. Garfield.

(3) *Jealousy*.—This "green-eyed monster" has been responsible for a vast amount of crime. Kings and queens have gone down before its pow-

er, and even Christ of Galilee was crucified largely out of jealousy. This is sometimes an accompanying, sometimes an only cause.

(4) *Lust*.—The records of twenty-four institutions show 1895 crimes of immorality out of a total of 24,304, or 7.8 per cent. This is perhaps a good general average.

(5) *Liquor*.—When the licensed saloon was in existence intoxicating drink was connected with about 85 per cent of the crime in the whole country. Since the saloon was outlawed, drinking has decreased and a smaller percentage of the crime is due to liquor, yet it cannot be doubted that it is responsible for or at least connected with a good deal of crime.

## (2) WHERE SOCIETY IS RESPONSIBLE

(1) *Ignorance or a lack of interest*.—One instance will suffice here—that of jails. It is a hard criticism on our penal system and therefore on society at large to say that the very institutions that ought to lift men to higher levels are really dragging them down to lower ones. A visit to any ordinary jail or penitentiary will convince anyone of this fact. Often poorly ventilated and poorly lighted, small and dirty cells, idleness, cruel and profane officers—what encouragement do these conditions afford for better living?

Judge Lindsey in his book, *The Beast*, tells the following story:

Still another lesson I learned from an inveterate little runaway named Harry. After several attempts to reform him, I sentenced him to the Industrial School in Golden; and this being before the days of the Detention School, he was returned to the jail until a sheriff could "take him up." That night the jailer telephoned me that Harry was in hysterics, screaming in his cell and calling wildly to me to help him. "You'd better come down, Judge," the jailer said, "an' see if you can get him

quiet." I went to the jail. Inside the steel doors were opened and the steel bolts withdrawn, one by one, with a portentous clanking and grating. It was as if we were about to penetrate to some awful dungeon in which a murderous giant was penned—so formidable were the iron obstacles that were swung back before us and clashed shut on our heels. And when I reached, at the end of a guarded corridor, the barred door of Harry's cell, there, in the dim glow of a light overhead, the boy lay asleep on the floor, his round little legs drawn up, his head pillowed on his tiny arm, his baby face pale under the prison lamp. The sight was so pitifully ridiculous that I choked at it. It seemed such a folly—such a cruel folly—to lock up a child in such a place of lonely terror.

This condition has been corrected in Denver, but in how many cities in our land has it not been corrected!

Judge Cleland of Chicago has written forcibly on this point. He says:

In my opinion the greatest enemy of the church is not the saloon or gambling house, but the jail; and I am in hopes that some day it will find it out. Of what avail is it for the pastors to preach the duty of overcoming evil with good, and the binding authority of the Golden Rule, when the state, through its criminal courts and jails, is teaching that all this is a mistake and that the way to overcome evil is by doing evil.

I believe the greatest impediment to-day to the missionary enterprise of the church at home, but especially abroad, is the practical testimony given by the hundreds of thousands of the foreigners, the principal victims of our penal systems. Tens of thousands of these foreigners return every year to their native countries and there spread the news of how this Christian government puts into operation through its criminal courts and jails those principles which are totally at variance with the teaching of our missionaries.

Here is the inscription on the old prison at Edinburgh. It fits well the American prison.

A prison is a house of care,  
A place where none can thrive,  
A touchstone true to try a friend,  
A grave for men alive.  
Sometimes a place of right,  
Sometimes a place of wrong,  
Sometimes a place of rogues and thieves,  
And honest men among.

(2) *Neglect.*—Neglect on the part of parents to give their children proper training at the adolescent period, lack of proper home restraint, society's neglect of homeless children and children of broken homes, neglect of physical and mental training near the 50-line where criminality rises perceptibly. Such inexcusable neglect should make society blush with shame.

(3) *Inadequate or perverted public opinion.*—Here we have laxity in prosecution, unwillingness and fear on the part of citizens to protest, ineffective detention and prosecution of criminals, immoral and exciting picture shows, newspapers and the underground liquor business. The last two, but one, are of special importance. Who can doubt that evil impressions are made daily on the minds of millions of young people by many modern picture shows? The picture show has great possibilities for good, but there is evidence to show that it has contributed in no small way to juvenile crime. This statement is made on the basis of testimony of juvenile courts. Crimes committed by boys have been traced directly to impressions received at picture shows. The writer recalls overtaking a boy of about nine years on a street of one of our large cities one evening after dark. The boy was alone. He was asked where he was going, and he said he was going to the picture show. He was asked what kind of pictures he liked and he said he liked the Wild West pictures. He was then interrogated as to why he liked the Wild West pictures and his reply

was that he liked to see the shooting. Think of the impressions that were made on that boy's mind that evening! Is it any wonder that juvenile crime is so prevalent in our country? Public opinion must be so changed that a better class of pictures will be demanded. As the picture show business is carried on to-day, the pictures are entirely too suggestive of crime and lust.

Next to the picture show, perhaps, is the newspaper, which reports crime in big headlines and pictures the criminal with his mask and tools committing some blood-curdling deed. These things tend to stir the young mind to imitation. On this point Lombroso remarks:

Civilization, by favoring the creation and dissemination of newspapers, which are always a chronicle of vices and crimes, and often nothing else, has furnished a new cause of crime by inciting criminals to emulation and imitation. It is sad to think that the crime of Troppman brought the circulation of the *Petit Journal* up to 500,000, and that of the *Figaro* to 210,000, and it was doubtless for this reason that this crime was imitated almost immediately in Belgium and in Italy.<sup>4</sup>

A strong indictment of this phase of the modern press is found in an editorial in "The Minnesota Prison Mirror," published by the convicts in the State Prison at Stillwater, Minnesota. Says the editor:

The newspaper of to-day is the chief disseminator of information on criminal matters. It is the thief's text-book and every robbery it details is a new lesson to him. It is true that the public is to some extent forewarned against the danger of being duped by the methods which the newspapers expose; but honest people do not read the accounts of criminal transactions with as much avidity as do dishonest persons, consequently do not absorb so much information. When a bank robbery occurs the most minute particulars are given of the *modus operandi*, and in many

instances the cracksmen's whole kit of tools is accurately delineated in illustrations. The banker, having little use for such information, soon forgets all he has read about it; but on the other hand, the aspiring burglar stores the minutiae away in the secret recesses of his memory for future use.

Nor is this influence of the press limited to the newspaper. The dime novel, especially the "blood and thunder" story, is partly responsible; so, also, popular stories of real criminals, such as those of Jessie James and of the Younger Brothers, stir up to crime the young boy who has red blood in his veins. Society is flooded to-day with all kinds of literature, much of which is unfit for any mind to peruse, and supremely so for the young mind.

(4) *Industrial conditions*.—The first of these we mention is female labor. Reference is here made to young women and mothers. One cannot visit department stores, factories and the like without feeling that the hard work of being on one's feet for many hours and waiting on scores and even hundreds of people each day is ruinous to the nervous system; that the cramped and uniform position in which many remain for hours at a time is shattering to the constitution; that the vile language that is often used in factories employing both male and female labor is degrading to the morals; and that all these tend to disqualify woman for her highest and heaven-assigned mission of motherhood. All these things react on the child and reduce its resistance against the evils of the world.

Child labor is another phase of our industrial situation which is undoubtedly a cause of both juvenile and adult crime. Child labor is a monster stalking abroad in the land devouring whom it will. It is a pitiful sight to see mere children in stores and factories who ought to be at home and in school. They need parental care and training

<sup>4</sup> *Crime: Its Causes and Remedies*, p. 54.



and they need education. In some cases they are compelled to be there on account of home conditions. Myron E. Adams says there are three kinds of homes that help to make juvenile criminals; the home of inherent poverty, the home of accidental destitution, and the home of immoral or criminal tendency.<sup>5</sup> The power of early training is very great. Children should be in their homes until their characters are well formed. But sometimes both parents and children work, all come home tired in the evening, and there is little of that vital influence that ought to associate itself with the names parent and child.

Vice and crime are notorious among news and errand boys, and the reasons are evident. The same, of course, is true of girls acting in these capacities, though there are few of them. The writer cannot help recalling one little girl he used to see every Sunday morning standing on the cold street corner selling papers. For aught he knows she was there every morning. What an opportunity for an evil boy or a lecherous man to lead her astray! But how much better off is the girl in the shop or factory? None whatever. She may have much less opportunity to grow into noble womanhood. Now there are hundreds and thousands of young boys and girls working in differ-

<sup>5</sup> *The Outlook*, Aug. 4, 1906.

ent occupations in our land. Here are the government figures for 1920. They cover the ages from 10 to 15.

It should be remembered that all these were between ten and fifteen years of age, and it is almost certain that the actual numbers were considerably larger. Where ought these plastic boys and girls to be? Certainly in the home and school. All these unnatural conditions tend to weaken the physical, the intellectual and the moral nature and thus make the road to crime easier.

In this boasted land of freedom there are bonded baby slaves,

And the busy world goes by and does not heed.

They are driven to the mill, just to glut and overfill

Bursting coffers of the mighty monarch, Greed.

When they perish we are told it is God's will.

Oh, the roaring of the mill, of the mill!

—*Ella Wheeler Wilcox.*

Tending in the same direction are unsanitary conditions, long hours and low wages. That low wages are a contributing cause to low morals was clearly brought out by the investigations of the Chicago Vice Commission several years ago, employers to the contrary notwithstanding. And it is but a step from low morals to crime when the oc-

| Occupation                       | Boys    | Girls   | Total                   |
|----------------------------------|---------|---------|-------------------------|
| Gainful occupations .....        | 714,248 | 346,610 | 1,060,858 (1/12 of all) |
| Mining .....                     |         |         | 7,191                   |
| Manufacture .....                |         |         | 185,337                 |
| Agriculture .....                |         |         | 647,309                 |
| Transportation .....             |         |         | 18,912                  |
| Trade .....                      |         |         | 63,368                  |
| Domestic and personal service .. |         |         | 54,006                  |
| Clerical .....                   |         |         | 80,140                  |
| Glass workers .....              | 967     | 181     | 1,148                   |
| Textile mill operatives .....    | 5,483   | 2,552   | 8,035                   |
| Tobacco workers .....            | 493     | 466     | 959                     |

casion for crime arises. This affects both men and women.

(5) *Social conditions*.—Closely akin to industrial conditions are social conditions. So close is this relationship that the former are often the cause of the latter. Unwise marriage and divorce laws no doubt contribute indirectly their share to crime. And what shall we say of our tenement houses with their "dark hallways, dark living rooms, poor sewerage and bad air?" It would seem as if the powers of darkness had combined to design our tenement houses. They are hotbeds of disease, vice and crime, and yet society "winks" at them.

Added to these social conditions is the rearing of children in the streets.

The training of children is a well-known theme, but will never be worn out as long as new generations come upon the scene of action. Startling emphasis has just been laid upon the subject by the last message of that life-long criminal and gang-leader, who was shot upon the streets of New York. "I never allow my boy to play marbles for keeps. That was the beginning of my criminal career. I never allow him to be on the street at night. I am training him in athletics." Is it remarkable that a gambling mania is upon the country from Wall Street to the boys on the curb? The mothers in the parlor, the fathers in the club, the hobos in the saloon, the college boys on the athletic field, the children on the street are all playing for keeps. Here is a tropical climate for crime.<sup>6</sup>

Besides all these there are heredity, illiteracy, race, climate, topography,

<sup>6</sup> *Gospel of the Kingdom*, Dec. 1912.

wealth, all related to crime as Lombroso and others have pointed out, and all of which, except illiteracy, may contribute to righteousness as well as to crime.

Such, then, are the causes of criminality, and such are the forces with which the Church must deal in seeking to eliminate criminality from the land. Many they are, and difficult of removal. They constitute a mighty mountain, which, if the Church has faith enough, she can cast into the sea—the sea of oblivion. It will be no small task. It will be a greater task than the abolition of Chattel Slavery. The Church must not be satisfied to deal with effects only or even primarily. What boots it if she cuts off a few branches here and there, but leaves the giant tree with its massive roots in that which nourishes it? She must kill the germ rather than deal with the effects of the disease. This she ought to do and not leave the other undone. The Church is not doing her full duty toward destroying the spirit of crime, which, like a mighty whirlpool, is sucking in its thousands of youths every year. In answer to a question as to whether the Church is doing her full duty in this matter sent out to ministers and others, only two answered in the affirmative. The words of Hon. W. J. Northern, ex-governor of Georgia, voices the sentiment of many. "Not by any means," he said, "the Church seems to be dead asleep on all these subjects." The Church must wake up. She must not fiddle while Rome burns.

#### IV. THE CHURCH AS A FACTOR IN THE ELIMINATION OF THE CAUSES OF CRIME

There are three fundamental institutions of society—the state, the family and the Church; and these are based on three fundamental elements of human nature—the social, the

moral and the religious. The state has for its chief foundation the social nature of man; the family, the moral; and the Church, the religious. But these are not mutually exclusive. All

three elements are found in all three institutions, and perhaps none of them could exist without all three, but the social, the moral and the religious nature of man are the *chief* foundations respectively of the state, the family and the Church. The best interests of society demand that these fundamental elements be properly recognized and developed, both in the individual and in the organization.

For its own development, there are two things with which society must deal—causes and effects. Neither of these can be ignored without fatal results. Which of these institutions must deal with causes and which with effects? Here again lines cannot be drawn too closely. But it must be admitted that those institutions which are the outgrowth, fundamentally, of the moral and the religious nature must deal especially with causes, and that the major portion of dealing with effects must rest with that institution which is the outgrowth of the social nature. This being true, the home and the Church are the chief institutions to see that causes are what they ought to be, and on the state is the chief burden of dealing with effects. The family can deal very little with effects, but it can wield a powerful influence on causes. The state must deal somewhat with causes, but chiefly with effects, and the Church must deal partly with effects, but primarily with causes. Thus we have two institutions which by their very nature must spend most of their energy on that which is basal and internal, and one, on that which is comparatively superficial and external. This is as it should be.

Limiting ourselves now to the Church in its relation to crime, we conclude that the Church must deal primarily with the causes of crime, while not ignoring its effects. Having presented the causes of crime in our third article,

we are now prepared to consider the question: What is the proper work of the Church in the elimination of the causes of crime? This is a very important interrogation, and before attempting to answer it, we lay down the following principles:

#### IMPORTANCE OF THE INDIVIDUAL

(1) In the last analysis, the solution of the problem of crime, as of all of our social, moral and spiritual problems, is to be found in the salvation of the individual. As long as sin is in a man's heart, it will seek some way of expressing itself. Good laws are good things and the more we have of them the better *as long as they are enforced*; but it is a well-known fact that in a democracy, laws, no matter how good they are, are not well enforced unless there is a strong public conscience behind them, and a strong, wholesome public conscience depends, in the ultimate analysis, on a strong, wholesome individual conscience. There is no form of government that can be set up, no matter what its regulations nor with what a firm hand its scepter is swayed, that can completely eliminate wrong-doing as long as the desire for wrong-doing is in the heart. This is true for two reasons: first, the uneducated man who has evil in his heart will bluntly commit his crime, hoping to escape detection; second, the man of ability and education who has the same kind of evil in his heart will commit crime because he believes he will be able to evade the law. If his ability is intellectual, he will endeavor to find some loophole in the law of which he will take advantage, or by some other twist or turn he has faith that he can avoid prosecution. If his ability is financial, he will squarely disobey not only the spirit but the letter of the law, and depend on entangling the prosecutor,

the judge or the jury in the yoke of financial bondage.

These truths have been illustrated and multiplied thousands of times in our land. Laws against child labor, for example, have not been enforced because there has not been a sufficient public conscience behind them; or escape has been made through some technicality of the law or prosecutors have been bought off. The same has been true in hundreds of other things and the imperative demand for individual righteousness has been manifested, not only in the guilty man who bought off the prosecutor or per chance the judge, but also in the prosecutor or the judge who was bought. "There's many a slip 'twixt the cup and the lip," and there's many an opportunity between the commission of an illegal act and the entering of prison doors for the criminal to escape. To attempt to suppress crime merely by good laws is like trying to fasten an incorrigible pig in a field. The pig will find some way to get out, and as often as one place is fastened another will be found. We repeat our belief in good laws—we could not get along without them—but the final solution is in the salvation of the individual.

(2) The individual is eternally bound to society and under obligations to it. Society is bound together by invisible but real ties, and no man can separate himself from it and live. Even the hermit must depend for the maintenance of life on knowledge gained from others. The farmer is bound to society by his plow, the carpenter by his saw, and the scholar by his book. Then there are moral and spiritual ties from which one cannot escape if he would. We cannot live a day without depending on our relationship to others. Humanity is like the human body; every part is related directly or indirectly to every other part. "We

are members one of another." The solidarity of the race is no chimera. It is an everlasting truth, and the sooner men find it out the better.

(3) Society, likewise, is eternally bound to the individual, and is therefore under obligation to him. The individual preceded society, and the latter grew out of the social nature of the former. Of course society cannot exist without the individual any more than the individual can exist without society. Of the two the latter is the more nearly possible. The family, which is one form of organized society, is bound to that man in the distant forest who fells the trees that make the house in which they live, the chairs on which they sit, the table on which they eat. The clothing we wear depends on the cotton or wool grower, and so on with almost everything that makes society possible. Society can no more get away from the individual than the human body can get away from all its members, or a book exist without its leaves. Here again the complete solidarity of the race appears.

#### CATHOLICITY OF THE CHURCH

(4) The Church must ever remain, in its nature, a catholic institution. That is to say that it must be such as to make an appeal to all men without regard to their nationality, their political creed, their social standing or their place in the industrial world. There can be no doubt that the Founder of the Church intended that it should eventually include all men. It must, therefore, be applicable to all men. Its life and teachings must be such as all men can honestly and conscientiously embrace, regardless of their opinions on secular questions. It dare not ally itself with any political, social or industrial party, no matter how just its cause, for it would thereby become a sectarian institution, and be a mere



political, social or industrial machine. For example, the Church cannot afford to ally itself with labor as against capital or with capital as against labor, no matter how just the cause, for if it were to do so, it would "in that very hour" become a partisan institution in a secular situation. Paul's attitude on the question of slavery is to the point on this question. Slavery was wrong in Paul's day—quite as wrong as to-day. But he took no attitude either for or against slavery. He sought to convert both master and slave so they could live on a common level in spiritual things. He made brothers of them. That beautiful letter in the New Testament under the name of "Philemon" is our justification for this statement. It would have been a fatal mistake for him to have done otherwise. He was not partisan on a social question, but catholic. Had this teaching been adhered to, the churches of this country would not have become divided over the question of slavery, producing wounds not yet healed. Those churches which adhered to the non-partisan attitude of the inspired Apostle were not rent in twain, but were kept united and were thus enabled to execute more effectively the higher mission to which they were called. Many instances could be adduced from history to illustrate the same principle. The Church *must* remain non-sectarian if it will fulfil its purpose of saving the world. Any other attitude will be and ought to be ruinous.

Having now a foundation of four stones on which to build, let us see if we can determine what the superstructure ought to be. With these principles as a basis, what can the Church do to abolish crime and eliminate the causes of crime? Be it remembered that it must deal with individual, economic, social and all other conditions that produce crime.

#### THE CHURCH AND CRIME ELIMINATION

(1) What can the Church do to eliminate those causes of crime for which the individual is partially or wholly responsible? *It can save the individual.* This is the only way such causes ever can be eliminated. If a man has become the victim of poverty and thus tempted to steal, or commit burglary or some other worse crime to obtain money, and he has come to this condition by his own habits, the Church can go to him and save him. Of course it ought to save him before; but even now it can save him. It can make a man of him. This has been done times without number, and can be done times without number again. The real Christian religion has not lost its power to save men. "The true full gospel of life is the best prevention of crime." This is largely a question of religious training.

At a recent meeting of the Religious Education Association, Professor Bagley, of the University of Illinois, read a startling résumé of an investigation of the religious antecedents of affiliations of the prisoners in thirteen state prisons in the northern tier of states. On the basis of the United States census estimate of the adult membership in religious bodies, the ratio of prison commitments to the proportion of the population affiliated with the several religious bodies was studied. Those denominations paying least attention to the religious education of their youth and of their ministry were found to be most numerous represented in the prisons of all the states. In every state prison two of these religious bodies had the most representatives, while the two other bodies paying most attention to religious education had the fewest in every case.<sup>7</sup> This is strong testimony from a scientific

<sup>7</sup> *Gospel of the Kingdom*, Dec. 1912.

source. A religion that could save Jerry McAuley, a river thief and a drunkard, can save anyone; and no one can visit or even read the account of the McAuley Mission on Water Street in New York City, where hundreds of men, in the lowest depths of sin, have been raised "to walk in newness of life," without realizing this. "It is certain that nothing else so contributes to thorough and permanent reform as the teachings of the Bible, the example of Christ, the regeneration of the Spirit, and the sufficiencies of divine grace." This is the testimony of one who deals with prisoners. Save the man, and those habits and conditions for which he is himself responsible will take care of themselves. The stories of conversion told in Begbie's *Twice Born Men* is abundant proof of this statement. Who ever heard of Jerry McAuley committing a crime after the religion of Jesus really took possession of him?

A real turning to God will enable a man to overcome his jealousy, his passion and his lust, and will drive away the demon of thirst for drink. Only true religion can do that. The reason it has not done it in more cases is because the Church has been shamefully neglectful of going out and helping the fellow that is "down and out." The Church should give him a helping hand, and if he falls give it to him again. McAuley tried five times before he succeeded. The Church (and especially the ministry of the Church) needs to go and inspire others to go with a burning message and find them—find them everywhere—in the highways and byways and hedges, wherever there is a man that needs help, for he is a brother. It should lift him up and stand him on his feet, and help him to walk until he is able to walk alone. Then it should go out and save another man. This the Church can do and do effectively, and it will go a long way in solving the prob-

lem of crime. This is the partial working out of the first principle.

Then the Church can teach every man that it saves that he owes an obligation to society. This will enable him to see that he is bound, morally, to save his brother. Science can teach that a man is bound to society as a limb is bound to a tree, but it remains for the Church to teach the brotherhood of man, which has its foundations in the fatherhood of God. Thus every really saved man will become a savior—the Church will become a working church. No true member will sit down and say, "I am saved and every one else ought to come as I have done," and still feel no responsibility to be one's brother's keeper.

(2) What can the Church do to eliminate those causes of crime for which society is partially or wholly responsible? It must cry out from the very house-tops that society is bound to the individual—that it owes him the best possible chance it can give him. It is often said that the world does not owe a man a living. That is true, but society does owe every man a chance to make a living and to be of service to society.

Are crimes due to an inadequate or perverted public opinion? Is there a laxity in prosecution or ineffective detention and prosecution of criminals? Is there an unwillingness and a fear on the part of the citizens to protest against wrong? Let the Church be taught and let it teach others to demand justice and right in the courts, to follow their Leader and fear nothing.

Is it an immoral picture show that is ruining the morals of the young and helping to make criminals out of them? No one possesses such power to do away with it as do the minister and his people. Is it a newspaper that reports crimes in blazing letters, and gives a detailed description of how the deed was done?

Is it the bootlegging business, which, though far less powerful than the outlawed licensed saloon, is working mischief, not only among those who had already learned the habit of drinking before the saloon was abolished, but also among new victims? Let the ministry and the Church teach and be taught that society is bound to the youth of our land and owes them a chance to be decent and sober. Let the Church create such a sentiment as this, and it will wipe these nefarious influences from our land. The Church does not need to go into law suits or even suggest methods. The great business of the Church is to make men Christians and to teach them their fearful responsibility to all other men and the method will be found.

Are industrial conditions driving people to crime? Are men, women and children being so crushed by the iron hand of Greed that they must become criminals in order to live? Are children from ten to thirteen years of age working in the mills? Are wages too low for decent living? Are conditions unsanitary? Let these conditions be described from the pulpits of our land—let them be plainly and earnestly described—cry aloud for justice—cry aloud and spare not. Let no minister be cowed by the presence in his congregation or membership of an employer of child labor or a dispenser of starvation wages. Let the minister be fearless. Let justice be demanded. The spirit of Allan Rutledge and of Philip Strong ought to be his. If the ministry will do this, "The common people will hear them gladly," and they will create a demand for justice that must be heeded. No methods need be proposed, no sides taken. Create the sentiment, season it with the spirit of Jesus which is the spirit of peace, yet of earnestness, and methods will take care of themselves.

Are social conditions causing crime? Are there bad marriage and divorce laws? Are tenement houses filthy, dark and unventilated? Let the people know it, not once or twice but until the conditions are removed. So, also, with children reared in the street. Let the value of boy life and girl life be emphasized. Let the Church teach society that these boys and girls are not getting a fair chance, that society owes them a chance, and that all are brethren—that God is the God of all. When the right sentiment is created, a better place for play will be found.

All this the Church can do to eliminate the causes of crime and still maintain her catholicity. She would be demanding only that which is universally admitted to be right and just. There would be nothing partisan or sectarian about it, and yet such a power could be wielded as would change the face of society. Truly, the Church has been asleep. But she is beginning to awaken. Nor does the Church need to depart from the preaching of the gospel to do this. All this is in the gospel. The gospel of Jesus is a gospel of justice. It is a gospel of the value of life. It is a gospel of childhood, of manhood and of womanhood. It is a gospel of brotherhood. "For ye tithe mint and rue and every herb, and pass over justice and the love of God: but these ye ought to have done, and not to leave the other undone." This shows where the Founder of the Church stood. He was on the right side of this as of every other question. The position here taken is that the Church as an institution cannot afford to ally herself with organizations contending on either side of the great industrial, social and other questions involving conditions that may produce crime, but that these conditions can be brought strongly and clearly to the notice of the

Church and society in general, justice demanded, mercy and love urged, human beings evaluated, and society taught its duty. Then let Christian men and women go out into the world's life and, in the spirit of Christ, solve the problems that concern the welfare of mankind. The Church may be likened to a dynamo where the power is produced, and Christian men and women are the wires carrying the current of the righteousness of God to the crime-producing conditions in our land.

Says Washington Gladden:

The minister who has become merely or mainly political, or sociological, or economical, or scientific, has abandoned his vocation. The minister to whom religion is not the central and culminating power in all his teaching has no right in any Christian pulpit. It is *the religion* of politics, of economics, of sociology that we are to teach—nothing else. We are to bring the truths and powers of the spiritual world, the eternal world, to bear upon all these themes. This is what we have to do with these social questions, and we have nothing else to do with them.<sup>8</sup>

This is the position we maintain the Church should take as to the causes that produce crime.

There are three positions taken on this question: first, that the Church should preach the gospel as it always has done, simply to save individual souls, and prepare them for eternity; second, that the Church should become chiefly a social institution, and as such eradicate the social evils of our time; and third, that the same old gospel should be preached—the gospel which is the power of God unto salvation to every one that believes—and applied to modern conditions for the double purpose of ameliorating the ills of society and of preparing men and women for an eternal fellowship with their Creator. Mankind is given to ex-

tremes. Its opinions swing like a pendulum. Is there not danger that as the Church reacts against the older idea that she will swing too far the other way? We believe the golden mean is the golden way. The Church stands as the great motive power in the production of character and it must burn into the souls of men the truth that the character of Jesus must be applied in everyday life—in service to mankind—and little can it afford to be sidetracked from this most fundamental of all services.

We advocate also the open church seven days of the week. Men have souls on Monday and Tuesday as well as on Sunday, and it is hard for the average man to get enough spiritual force on Sunday to last him through the week. Besides, the open church on week days and week-day evenings appeals to the practical man. He does not see why the Church, which claims to be such a friend to man, should shut him out of its buildings six-sevenths of the time. Why should a church building be a center of activity on Sunday, and a solemn and ghostly looking object all the rest of the week? Pool rooms, dance halls and brothels are open every night in the week, devouring the souls of men. Why should not the Church be open as much of the time to try to save them? Here is a diagram from "A Rural Survey in Illinois," made by the Department of Church and Country, of the Board of Home Missions, of the Presbyterian Church in the United States.

WHERE MEN MEET  
(44 communities in Illinois)

|              |       |
|--------------|-------|
| Stores       | _____ |
| Restaurants  | _____ |
| Pool rooms   | _____ |
| Town hall    | _____ |
| Elevators    | _____ |
| Shops        | _____ |
| Barber shops | _____ |

Should not the church provide rooms?

<sup>8</sup> *Social Salvation*, p. 26.



## V. THE CHURCH AND THE CRIMINAL

## THE CHURCH AND THE PRISONER

The following points, taken from the Social Creed of the Churches as determined by the Federal Council of the Churches of Christ in America, some years ago, relate to our theme, and meet our hearty approval:

(1) For equal rights and complete justice for all men in all stations of life.

(2) For the protection of the family by the single standard of purity, uniform divorce laws, proper regulation of marriage and proper housing.

(3) For the fullest possible development for every child, especially by the provision of proper education and recreation.

(4) For the abolition of child labor.

(5) For such regulation of the conditions of toil for women as shall safeguard the physical and moral health of the community.

(6) For the abatement and prevention of poverty.

(7) (This item referred to the liquor traffic).

(8) For the right of all men to the opportunity for self-maintenance, for safeguarding this right against encroachments of every kind, and for the protection of workers from the hardships of enforced employment.

(9) For a release from employment one day in seven.

(10) For a living wage as a minimum in every industry and for the highest wage that each industry can afford.

There is another phase of this subject that deserves mention. In many, perhaps most of our larger cities there is a moral (rather, an immoral) relationship between the party organizations and conditions which tend to crime or even criminality itself. It is natural for a political party to desire power. Politicians desire to remain in office. In the larger cities the under-

world and other elements are often very strong—so strong that they often hold at least the balance of power. A political party may thus allow itself to be the tool of criminal forces. This is a most unholy alliance. Again, it will be conceded that in thousands of instances crime is protected for a price—the price of dollars and cents. "The jingling of the guinea helps the hurt that honor feels." That men who are hired and paid by the people to see that the law is obeyed should themselves disobey the law by accepting bribes is a very distressing, not to say disgusting, situation.

What can the Church do in these two types of situations? Should the Church take up the wage of battle for or against any particular political party because of its attitude toward criminal elements and conditions? Should it take sides for or against any particular office holder or candidate for office because of his attitude toward bribes? We seriously doubt the wisdom of such a course. That the Church should ever become either personal or partisan even in moral situations is exceedingly doubtful. Should it take such a position and afterward be proved to have been mistaken, that fact would reduce its spiritual power greatly. It were better for the Church to avoid such "tangling alliances." It must not be thought of as favoring this or that candidate nor this or that party, but as standing for the eternal principles of righteousness and insisting in no uncertain terms that its members shall be true to the righteous principles of the gospel. It can insist that its members live clean and that they vote for clean officials, but as to singling out this or that individual or any particular party, the Church must leave that to the individual.

By preaching and insisting upon the practice of the fundamental principles of purity, honor, square dealing, helpfulness, love, Godliness, it will do far more to ameliorate the ills of society than in any other way. Seemingly it will take longer, but in the end it will prove more effective. In the strongest terms it can condemn bribery or any other practice involving moral turpitude either in persons or parties. It has a right to insist that those in public office perform their duties faithfully. Its most fundamental duty is to get men right with God and then they will do right in regard to their fellowmen.

We have said that the chief work of the Church with reference to crime relates to causes—to prevention rather than to cure. But this is not its only work. It must do what it can with effects. Many a man is never touched by the gospel before he enters prison walls. If the Church has not reached him before, surely it ought to try to reach him now. Besides, if the Church has touched a man, and then he has fallen, should she follow him to the prison door and leave him to go in alone? No, she ought to go in with him—in—all the way in—into the very prison cell. Surely he needs religious influences now, if ever. No, the Church should not forsake him. If she does her duty she will not forsake him.

What is the Church doing for the prisoner? There are many, no doubt, who believe that nothing can be done. They believe there is a distinct criminal class, the members of which never could be anything else than criminals; or if there is not a criminal class that those who have become convicts have fallen so low as to be beyond redemption. As to the idea that there is a criminal class, Lombroso and others have sought to prove the existence of such a class, but many are persuaded that it is a false doctrine.

The following from C. E. Ordway, in the *Atlantic Monthly* for July, 1905, under the heading, "Experiences of a Prison Chaplain," is interesting:

The first fact to be emphasized as a result of observation is the one that is just now rapidly coming to be recognized by society in general, namely, that there is, in reality, no distinct criminal class, but that criminals are mixed in with others in every class. That is, there is no particular body of people that is differentiated from the rest of the human family by reason of certain psychological characteristics, marked by certain hereditary traits, and possessed of special personalities, which can be gathered into a group by itself and be correctly designated a criminal class. . . . This fact, that the average convict is not distinctly different from other people in manners and appearance, when dressed like his fellows and mingling with them in the common life, is shown by the many instances in which I failed to recognize discharged prisoners whom I afterward met on the street or at the railroad station, or who came to see me for a talk or for help before leaving the town. They were men whom I had spoken to Sunday after Sunday in the chapel, and seen time and time again at their benches in their shops, yet when I met them in citizen's dress I did not know them, saw nothing about them different from the hundreds of people I met daily in the various walks of life; and the thought never entered my mind that they were, or ever had been, criminals until they made themselves known to me. In no instance was there a hall-mark on them to separate them into a class.

Maud Ballington Booth adds the weight of her name to this position. However, the arguments of Lombroso and other criminologists are weighty and deserve consideration.

Without stopping to argue the question, and expressing the belief on such investigation as we have been able to make that the majority of those in our prisons are not separated by ear-marks, slanting foreheads, and other peculi-

arities into a class, we ask: What is the Church doing for the man in prison, and what ought she to do?

(1) The Church is represented by a chaplain in nearly every penitentiary. In many there are two chaplains—a Protestant and a Roman Catholic. Of all the state prisons from which the writer received replies, but one had no chaplain.

(2) In only eleven out of forty-six institutions were any religious organizations doing regular work. In a few others occasional efforts were made. Of the fourteen societies named that were doing work, five were Catholic, and nine were Protestant.

(3) Two great organizations have established systematic work among the prisoners—the Salvation Army and the Volunteers of America. The organization effected by the Salvation Army within the prison is called the Brighter Day League, and requires the prisoner's signature to the following points:

(1) To read a portion of the Bible at least once a week, and to kneel in prayer each morning and evening, asking God for help and guidance.

(2) To refrain from the use of profane language, and to be kind to my associates.

(3) To consider myself from this day an abstainer from all intoxicating liquors, and to encourage others to do the same.

(4) To obey the rules and regulations in the institution of which I am at present an inmate, and to obediently carry out the instructions of the officials of the same.

(5) To endeavor to always live an exemplary life, and to act in such a way as to entitle me to be called a good citizen.

The prison organization of the Volunteers of America is called the Volunteer Prison League. Its rules are substantially the same as those of the Brighter Day League. The Volunteer

Prison League has been established in Auburn, Clinton and Sing Sing prisons, in the state of New York; in Atlanta, Ga.; Anamosa and Fort Madison, Iowa; Baltimore, Md.; Charlestown, Mass.; Canon City, Colo.; Columbus, Ohio; Eastern Penitentiary, Pa.; Folsom and San Quentin, Cal.; Fort Leavenworth, Kan.; Joliet and Menard, Ill.; Moundville, W. Va.; Richmond, Va.; Salem, Oregon; Trenton, N. J.; Wethersfield, Conn.; Baton Rouge and Prison Camps, La.; and Prison Camps, Miss.,—twenty-four prisons in all.

There can be no doubt that these organizations have done much good work. That religious work in prisons is conducive of good is strongly supported both by chaplains and by other officers. One said: "In every prisoner there are divine possibilities." Another expressed himself thus: "Many a man who lands in the penitentiary is good except in one point, and that may be corrected." Quoting again from C. E. Ordway:

It is my impression that the work of a right kind of a chaplain, together with that of the lay officials of our prisons, is most interesting and fruitful of good for society. The convicts are not the terrible creatures public imagination often pictures them, but are instead exceedingly human, especially on the better side of their nature. They are responsive to a strong and manly personality, to the effects and appeal of the sensible earnest clergyman who ministers to them, and the officers and others who come in contact with them. The best preaching, even of the right kind of a chaplain, will not, probably, make churchgoers of many of them after they leave the prison, but it will make better men of some of them.

These religious influences represent the Church at work in our prisons. She is doing some work, but could do much more. The question of prison work should be presented from the pulpit. Christ died for these unfortunates

as well as for the rest of us. They are our "brothers in bonds" as Washington Gladden puts it. Yes, our brothers. Shall the Church do anything for them? William J. Batt, Chaplain Emeritus of the Massachusetts Reformatory when our investigation was made, said "Jesus Christ is the greatest prison reformer of all the ages." If this is true (and who can doubt it?), then His people should do what they can to save the "brother in bonds."

The Church can do this by

- (1) creating a brotherly attitude in the churchman toward the prisoner;
- (2) by insisting that Christian men be chosen as officers;
- (3) by encouraging the enrichment of prison libraries with good books, of which our prisons are sadly in need;
- (4) and by inspiring to personal work.

From the standpoint of personal work, there is a deep obligation resting on the Church. To neglect the prisoner is to neglect Christ. "I was in prison and ye came unto Me. . . . Inasmuch as ye did it unto one of these, my brethren, even these least, ye did it unto Me; I was in prison and ye visited Me not. . . . Inasmuch as ye did it not unto one of these least, ye did it not unto Me." Deep sin, it is true, has overtaken the prisoner, but "a man's a man for a' that," and he can be saved. "If we are disciples of Him who came to seek and save the lost, these are the hapless ones to whom our love will first go forth."

Think kindly of the erring, do not thou forget,

However darkly stained by sin, he is thy brother yet.

Heir of the self-same Heritage, child of the self-same God,

He hath but stumbled in the path that thou in weakness trod.

Another word as to prison libraries. The churches in a given community could appoint a committee whose business it would be to introduce good and interesting books into the prison library. This would be one of the best ways to inspire a new purpose in the heart of the prisoner. And it would not only inspire a new purpose, but it would help him spend much of his time in prison in a profitable way, instead of meditating on his lost and lonely condition and planning new ways to commit crime after he gets out. What the Church could do to help the prisoner ought to be chiefly to help him when he again becomes a free man, and faces again the problem of life. Most of our prisons have libraries, but often they are inadequate both in quantity and quality. Many of the books need to be rebound. New ones should be continually added. Especial care ought to be exercised in the selection of books for juvenile prisoners.

Along with this work as to books, attention should be paid to newspapers and magazines. They should be of the very best. Why should not the Church even provide money for the buying of good books and securing good magazines if the regular sources are not adequate?

Further, the churches could have a prison committee to visit the prison at proper times, to talk with the prisoners, to carry flowers to the sick, and to assist in every way to make the atmosphere of the prison what it should be. Such a committee could aid the religious services in every way open to it, help in religious teaching, and be, in a word, of real service to the whole institution. It is fast coming to be believed that a prison should be a place of reform as well as of punishment, or at least a place where encouragement to reformation should be often extended, and religion, as we have shown, is a



vital element in reform. All this would be preparatory to helping the prisoner after his term has expired, as well as to make his life more wholesome while in prison. All this should be done, of course, in conjunction with the officers and chaplains of the prisons.

#### THE CHURCH AND THE EX-PRISONER

On the front of a little pamphlet is this picture. First, a prison gate. It has swung outward instead of inward, but it has been closed, and the keeper is fastening the lock. Outside stands a man who has served his time in the grim prison. Evidently his step is not very firm. A good while ago he was at the same spot, but he was facing the other way. Now he is facing the world. He is a free man. He has no prison stripes on now. In front of him and a little to his right stands a man who is recognized by his well-known cap. At his left is another man who also may be recognized by the picture itself. He is one of the criminal class. Each of these two men is extending his hand to the first, which spells invitation. The significant man in the group is the discharged prisoner. The eye of the observer naturally centers on him. Beneath the picture are these words, "Outside the Prison Gate—Which Way?" That is the question in the ex-prisoner's mind—"which way?" It is a crisis in his life. Perhaps he has been inspired while in prison to look up and try again. Now an old pal meets him and invites him to walk the same old path he walked before. What will he do? No doubt some men after serving their sentences in prison go out with the deliberate intention of living the old life over. But we are persuaded that with many this is not true.

What will determine such an ex-prisoner's future? Evidently the influences thrown around him. At least

they will have much to do with it. Shall these influences be good or evil? Will the ex-prisoner be reclaimed for citizenship or will he again become a criminal to despoil society, to be an added burden, and worst of all, to send himself farther down in the mire of sin? Has the Church a responsibility here? Most assuredly. The Church has a responsibility in the case of every man who comes within her reach until he dies.

But what can the Church do for this man? First of all it can help to carry on and extend the work already so nobly begun—the industrial home or a like house by a different name, which might well be called the Home of Another Chance. Here the man just out of prison is given an opportunity to show that he intends to "make good." If he succeeds, employment is found for him, and he really has a chance in life. Many of them do succeed. Mrs. Booth estimates that 75 per cent of those who pass through these institutions (Hope Halls they are called by the Volunteers of America) succeed in living honorable lives. That is surely worth while. If it were only 25 per cent it would be worth while. To save a man is a great work. The Prison Association of New York testifies that

sixty-eight per cent of Elmira Reformatory paroled men have "made good" for their paroled period. And we further believe, that if our staff of parole agents could be doubled, we could raise the sixty-eight per cent to seventy-five per cent or more. Is that not worth while? We do not and cannot say that none of the sixty-eight per cent of paroled men never revert to crime. But we do say that a systematic parole system is indeed splendidly justified when it carries *seven out of every ten men* through the most crucial after-prison period.

Such testimony as this shows that it pays to make every effort possible to

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save the ex-prisoner from going back into his old life of crime, and to save him for an honest and decent life. It is a cause for rejoicing and hope that the Christian people of America are beginning to see their duty in this matter; that they are beginning to look with compassion on the brother who has fallen among thieves—the thieves of dishonesty, drunkenness, lust, greed, malice—as he has gone down “from Jerusalem to Jericho,” and are pouring oil and wine into his wounds, taking him to their “inns”—industrial homes, Halls of Hope or whatever else they may be called—and taking care of him. It is a Christ-like service.

Says Mrs. Booth:

During the early years of my work, when I first became interested in this great prison population, I found the world's attitude toward the prisoner most uncharitable and in many instances bitterly antagonistic. The man who came from prison was shunned as if he carried with him some noxious affection; the door to honest labor was shut in his face; he was pointed out as an ex-convict; in every way his path was blocked with obstacles. It was no wonder that a large number of men returned again and again to prison. However hard they struggled, the odds against them seemed overwhelming. Though there is still much room for improvement, I am glad to be able to say that a very marked change can be seen now throughout the whole American world. People were prejudiced because of ignorance and because they had never stopped to think.

The following letter was written by an ex-prisoner to a man who was known to be a friend to ex-prisoners. The letter was afterward placed in the hands of Washington Gladden, and he gives it in his *Social Salvation*:

The main reason for applying to you is that I am right now under desperate circumstances. I have honestly and earnestly searched for honest employment all over this state and other states. I don't care

how hard the work is or what it may be so long as I can support myself by it, so if you know anyone you can send me with any possible show of a job you will be doing me a great kindness and God knows I will heartily appreciate and will make it my business to show you that I heartily appreciate. It is my earnest desire to do what is honorable and right, but as my friend —— may have told you, I have been so unfortunate as to have served time in the Ohio State's Prison and this seems to keep me back. People as a rule do not want to employ an ex-prisoner. Now all I want is just one show or chance to redeem myself and show to you and those who employ me that I will be an honest, honorable man if people will only let me.

I have been turned down so much here and there, and by some who profess to be Christian people, until I have almost lost all confidence in all people. I am a man that believes in law and order, and I believe that a man should be punished for continual wrong-doing, and I was fearfully punished for all I done, and my God knows I don't want such a horrible thing to come into my life again. I am ready and willing to do anything to escape or get away from anything that would lead me up to a return of such things; but now, see here; when a man puts forth his best effort to get honest employment and it is his real desire to do right and he is in need, but is turned down all around, the devil keeps digging at him, suggesting this or that,—and I tell you it is a severe trial when a man is idle and in need. I am trying to escape from the works of the devil and his service, for oh my! how well I know what they are,—nothing but woe, suffering, misery, disgrace, contempt. I want to get into something better, and it does seem impossible for me to get up to that alone; I must have help, and I am sure I am willing to lift my part of the load.

This letter ought to wring sympathy from any heart. Of course the ex-prisoner has no moral right to blame people for being suspicious of him. This is a part of the punishment he should expect. Yet the servants of Him who came to seek and save that

which was lost owe a solemn duty to such men to help them. That is a beautiful picture which shows a human being clinging to the cross with both hands; but that other picture is a more beautiful one which shows a human being clinging to the cross with one hand and reaching down to the earth to lift a fallen brother with the other.

We have said that the Church can assist the work already begun. But how can the Church do this? Every church in a community, or still better, the churches in a community combined, acting as one, could appoint a committee with proper representation from each church, whose special business it would be to see that prisoners' families who are in need receive proper assistance. Those composing such a committee should be men and women of large heart and have a goodly supply of common sense. This would not only assist the family, but it would be a great encouragement to the prisoner to know that some one cared for him and his—that he had real friends, and that these friends are church people and working under the authority of the Church. Many a prisoner could thus be led to be at least grateful to the Church, perhaps interested in it, and even led to join its ranks and participate in its work.

Then there should be a committee to aid the ex-prisoner in getting work.

We have seen that this is one of the most difficult things for the prisoner to find for himself. A sensible Christian committee could do much good along this line. The ex-prisoner would thus be enabled to earn an honest living. All would not do it, but this is not a good reason for not giving all a chance. There is no enterprise in this world that is not fraught with some dangers and possibilities of failure. The world will not cease to build ships because the finest ship ever made sunk beneath the waves. We may as well expect some failures, but we must expect far more successes.

Finally, the Church can make a systematic effort to enlist the ex-prisoner in its cause. It can invite him to its services, it can be friendly to him and it can urge him to become a Christian. Every possible encouragement should be given him that he may have a fair chance to become an honorable man.

In a book dealing with this question is the picture of a man's arm. The fist is clenched in anger. Just below it is the picture of another arm; but the hand is an open hand. And there are found these significant words:

When the discharged prisoner returns  
Shall he meet

THIS (picture of clenched fist)

or

THIS (picture of open hand)

Let the Church reply.

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# The Content of Punishment

By LOUIS N. ROBINSON, Ph.D.  
Chairman, Pennsylvania Committee on Penal Affairs

THE choice of a title for my paper was, I fear, somewhat unfortunate. It creates an impression immediately of dry philosophical reasoning, appropriate enough perhaps in a class on formal logic, but entirely out of place here. Really I intend nothing so difficult or so boresome.

It occurred to me that the word "punishment" is an obstacle to sound thinking about crime and criminals. Words often do stand in the way. Bacon, you remember, spoke of them as "Idols of the Market Place" of which we must beware.

## WHAT IS PUNISHMENT?

What, then, is punishment? Knowing, as a matter of fact, that only a small per cent of those who commit crimes are actually caught, tried and convicted, I am tempted to say that punishment is the booby prize given to those criminals foolish enough to get caught.

The term punishment means no one thing. It may mean one or more of a great variety of things. Let us try to think in terms of realities, something which is very hard for us Americans to do. Punishment includes the following:

1. Fine.
2. Fine plus imprisonment in some institution.
3. Imprisonment in jails.
4. Imprisonment in workhouses.
5. Imprisonment in houses of correction.
6. Imprisonment in juvenile reformatories.

7. Imprisonment in adult reformatories.
8. Imprisonment in state prisons or penitentiaries.
9. Death.
10. Probation.
11. Parole.

Even this enumeration does not give us much of an idea about the meaning of punishment. It is necessary further to explore the meaning of each one of these forms of punishment.

## FINES

The use of a fine as a form of punishment seemingly needs no explanation and yet it does. An offender may be rich or he may be poor. This fact is supposed to be taken into consideration in fixing the amount of the fine. Actually however, our jails are filled with poor people who cannot pay their fines while well-to-do people go free. Particularly is this method of punishment abused where men are wanted to work on the roads or are sold at so much a head to contractors. With the development of probation a new idea has come to the front, namely, payment of fine by installments. This helps out. The individual citizen cannot use imprisonment for debt as a method of collection, but seemingly the state in all its majesty can collect its debts in this way.

## "HELL HOLES"

What does imprisonment in jail mean? Several men have attempted to answer this question, myself among



others. But most people run out of bad nouns and adjectives before they finish. Joseph F. Fishman, for many years an inspector of prisons for the Federal Government, insists that a jail is a crucible of crime. He uses an entire book of 299 pages to explain this. The net impression which the reader gains from the book is that the jail, to use an old anti-saloon phrase, "is a hell hole of iniquity." This is the place to which we commit the enormous group of short-term prisoners with the exception of the few who are sent to work-houses and houses of correction, which on the whole differ very little from the county jails. Good enough, you will say, for the rascals, it will teach them better. They will learn not to commit crimes. On the contrary, they will learn how to commit crimes and "that," as Kipling says, "is another story."

#### THE PENITENTIARY

Our long-term prisoners are usually sent to a state prison or state penitentiary, the difference between these being merely a matter of name. Now while jails are nearly all alike in the United States, the prisons and penitentiaries are not. In the South the state prison is a huge plantation where men are worked in gangs much as slaves were worked before the Civil War. Work is the dominant note; health, education, training, and spiritual development are subordinated to the one idea of work. In the North the state prison or penitentiary is apt to be a huge mediaeval castle used, not to protect the people in the surrounding country from the attack of neighboring lords or barons, but to protect them from those who dwell inside. Its defense machinery is turned inside out and directed on those within. There may be work and there may not. I do not know the exact condition of affairs that now exists in the Eastern Peniten-

tiary of Pennsylvania, but only a few years ago I know that there were between seventeen and eighteen hundred men in an institution built for eight hundred men who had nothing to do but twiddle their thumbs. Bad as some of these institutions are, there is no question but that they are infinitely superior to the county jails. The man, therefore, who commits a serious offense is certain to receive far better treatment than one who commits a minor offense, for the reason that he will be sent to the penitentiary instead of to the county jail.

#### NEED FOR REFORM IN REFORMATORIES

Commitment to a reformatory depends on age. As a rule those who are under sixteen go to a juvenile reformatory and those between the ages of sixteen and thirty, if the judge so wills, may be sent to an adult reformatory. These two institutions are the prize ones of the lot. Yet I have to record the fact that some states have no institutions of this character that are worthy of the name. For example, what would you think would be the condition of a juvenile institution that had to make all expenses from the products produced on the farm by the children? A few years ago I visited a reformatory for adults. The warden himself told me that when he came there nearly all the people in the surrounding town seemed to be living off the reformatory. The men were being paid forty cents a day by contractors when common labor was paid \$4.00 a day on the outside. There was not the slightest attempt in this reformatory to educate or to bring about the moral improvement of the inmates. So, in speaking of imprisonment in a reformatory, we may be talking in a vague and loose way without realizing it.

Death one would think was something too well known to require com-

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ment. But there are now, I believe, in the United States some four official ways of putting a man to death. Moreover, the interminable delays and reprieves would, I imagine, cause a man to die in anticipation several deaths before his spirit finally passes on.

#### A CHANCE FOR FREEDOM?

What about probation and parole? Surely they mean something definite, clear-cut and easily understandable. Surely they do not mean this at all. No more than two weeks ago the warden of a large penitentiary confessed to me that his entire parole system was a paper system. Parole means two things: the preparation of the individual within the institution for a return to free life, and, secondly, definite, concrete and continuous assistance in the endeavor to regain or to hold a place in free life after release from prison. For lack of facilities little could be done within the institution to prepare a man for release and practically nothing was done for the man while on parole.

Probation is what our politicians make it. Perhaps I ought to say what we ignorant, selfish citizens make it. Instead of the vigorous application of case-work methods in the retrieving of fallen persons, it is often carried on by incompetent untrained officers who haven't the slightest idea of what it is all about.

Moreover, anyone who has had the opportunity to examine the individuals who pass through our criminal courts knows that no two are alike. He knows that they differ from each other enormously in their instincts, their reactions, their physical and mental make-up and their potentialities for good and evil. Yet we subject them all to pretty much the same dull routine of prison life. Now this is not an attempt to lay bare the evils existing

in all these various forms of punishment, but to make it clear that it is silly to talk about punishment as if we were talking about something which everybody knew and clearly understood.

#### A LOOSE WAY OF TALKING

We now read and hear on every hand that criminals should be punished more severely. What does this mean? Personally, I think that it is a very loose way of talking. Would it not, for example, be clearer, more understandable, if people would say exactly what they want done to the criminal? Why should not the judge say to the convicted man: "I order you to be confined in a cell or cage (giving dimensions thereof) without work until such time as you are reduced mentally to the condition of a 'prison simple' or imbecile or until through the practice of masturbation or other forms of sex perversion your body and mind have become thoroughly diseased, after which time you will be allowed once more to live in freedom among your fellowmen." It would then be clear what is meant by greater punishment. It would mean confinement until the imbecile had become an idiot or until the man had sunk to the level of a jelly fish.

When you come to think of it, there is no funnier joke that could be told than the story of a legislature that decided that a certain act should be a crime and *then* went on to say what should be done with a man who commits that crime one hundred years later, a man yet unborn, about whom absolutely nothing is known. This, my friends, is the legal reason why a man receives the kind of treatment in this year of Our Lord, nineteen hundred and twenty-six, that he does. It is, as the French say, to laugh.

## A DISSOCIATED PERSONALITY!

The Goddess of Justice is to-day what the psychologists call a dissociated personality. Let me explain. Some years ago I piloted a group of students through the Norristown State Insane Asylum. At the end of our trip we were taken to a huge dining room. One scene that I witnessed has always remained with me. Seated at one of the tables were ten or twelve inmates who seemed to be having a very interesting time. The conversation was voluble and animated. Several were talking at once. The strange thing, however, that I noticed was that each talker had no listeners. Each individual seemed to be separated from all the others by an invisible wall, no less effective, however, than if it had been a wall of stone or concrete. Each lived in a world of his own in which interesting things happened but which had seemingly little or no relation with the worlds in which the others lived. The evening meal, the common board, usually effective in producing a spirit of group unity, and common life, had no such unifying effect on the ten or twelve inmates. Each lived unto himself alone.

The parts of the machinery of criminal justice are, I sometimes think, as isolated from each other and as lacking in unity as the insane individuals gathered about the table in the asylum. The people who specify what acts are to be crimes, the police who catch those who commit these acts, the jails that hold the criminals for trial, the courts

that try the accused, and the prisons and other agencies which receive the offenders for punishment do not function as one unified organization through which a common purpose runs. Each part lives and works alone, knowing little and caring little what the other parts are doing and failing thus very largely to accomplish the task of protecting the public from crimes, a task which is their only excuse for being.

We are living in an age where society depends absolutely for continued progress, yes, even for its very existence, on scientific methods. Our methods of crime prevention, especially as applied to the handling of those convicted of crime, are wholly unscientific. Seemingly the effort to use scientific methods in dealing with offenders is blocked by a wall of superstition, ignorance, bigotry and sometimes by the curious old notion that our God is a God of vengeance. I appeal to each and every one of you to think and act concretely whenever stirred by the knowledge of a crime. Examine carefully all the forms of punishment or treatment that are available in your state or locality, taking no one's word for what they are, but seeing for yourself. Consider then carefully and to the best of your ability the exact nature of the criminal with whom you have to deal and then for your own benefit set down in writing what you want done with the man. Cast the word punishment out of your vocabulary, not because you are sentimental but because you detest loose thinking and unscientific methods of handling a big problem.

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# A New Phase of Criminal Anthropology in Italy<sup>1</sup>

By THORSTEN SELLIN \*

Assistant Professor of Sociology, University of Pennsylvania

SINCE the death of Cesare Lombroso in 1909, little has been written about him and his School in our country, in spite of the fact that our interest in the study of delinquents has constantly been growing to a large degree, thanks to the attention which Lombroso and his disciples fixed upon these social misfits. This silence with regard to the great pioneer is natural though hardly merited. Like many innovators, Lombroso suffered the fate of having his immature plans taken for the final structure, and their startling form, as well as their passionate defense by the architect, often caused critics to lose sight of the progressive modifications which time and study necessitated and which finally resulted in a synthesis which surpassed and transformed his original concept of the nature of the criminal.

With the passing of the years the echoes of the scientific controversies aroused by the Lombrosan theories have died. To-day these doctrines, which were once declared superannuated, are reappearing in a different guise and it is of this recent orientation of criminal anthropology in its native country that the writer proposes to give a very brief and descriptive summary.

## THE THEORIES OF LOMBROSO

For the purpose of placing in relief those recent criminological researches of Italy which are most closely related

to the doctrines of what we might call the "classical school of criminal anthropology," it is necessary to review the ideas of Lombroso. These ideas cannot be judged with fairness until we take into account the "intellectual climate" of the period which saw their birth. Lombroso grew to maturity during an age which revolutionized science, the age which produced Comte and Darwin, and it is no exaggeration to say that without the theory of organic evolution, complemented by Haeckel's law of recapitulation, and the positive method, the biological theory of the delinquent would have been an anachronism instead of a logical product.

Lombroso's interest in anthropology was of long standing (7). Even before he had done much work with criminals he had lectured at Pavia on "the white man and the colored man," developing those concepts of racial differences which later were to become integral parts of his theory of atavism. The "savage" was to him the modern representative of an evolutionary stage which the white man had already left behind. Earlier than the savage and inferior to him, came the various primitive human types, relatively recent links in a chain that could be traced through the animal kingdom to some simple manifestation of life. The function of an organ being dependent upon its structure and the behavior of an individual, therefore, conditioned by his organic constitution, it seemed obvious to Lombroso that the behavior of the primitive man and the savage should be different from ours, their structure, their con-

<sup>1</sup> The numbers from 1 to 16 throughout the article refer to the Bibliography at the end of the article.

\* Mr. Sellin is on leave of absence for investigation in the field of criminology on the Continent.—EDITOR'S NOTE.



stitution being different. He was, then, quite prepared to appreciate the discovery which chance caused him to make. He says:

In 1870, I had for months, on corpses and on the living, pursued researches in the prisons and asylums of Pavia, aiming to fix the substantial differences between the insane and the criminals, but with little success. Suddenly, on the morning of a dreary day in December, I find in the cranium of a brigand a long series of atavistic anomalies, particularly an enormous occipital fossa and an hypertrophied vermis analogous to the one found in the lower invertebrates. At the sight of these strange anomalies I saw, as on a large plain under a red horizon, the solution of the problem of the nature and of the origin of the delinquent; the characteristics of primitive man and of the animals reproduced in our day (5).

Thus was born the famous theory of the criminal man, the ghost of a prehistoric or savage past in the story of human evolution, a reincarnation of the childhood of the race.<sup>2</sup>

From then on Lombroso spent most of his efforts over a long period of years in assembling material for his biological theory of the criminal. He studied the evolution of crime in the animal kingdom, among uncivilized races, and, finally, in the child. These investigations were complemented by untold posthumous examinations and by thousands of anthropometric

<sup>2</sup> This discovery encouraged Lombroso to continue his researches. In 1876 he published in book form his *L'uomo delinquente* which had already appeared in the Proceedings of the Royal Lombardian Institute of Science and Letters from time to time since 1871. Its reception by the public led him, somewhat bitterly, to remark, "When I compare the success of this work with that of my poor little *Studi sulla pellagra e sui veleni del mais*, on which I spent the flower of my life, I understand the truth of the adage on the blind fate of books." One edition after the other caused the book to grow from less than three hundred pages to four large volumes in the fifth edition of 1896-7.

studies of criminals, of insane, and of normal individuals. As a result of this work he became convinced that the criminal was not a variation from a norm but practically a subspecies of man, with distinct physical and mental characteristics. In fact, he believed that it was possible to distinguish special types of delinquents. As early as 1874, he maintained that

as a rule, the *thieves* have mobile hands and face; small, mobile, restless, frequently oblique eyes; thick and closely set eyebrows; flat or twisted nose; thin beard; hair frequently thin; almost always a receding brow. Both they and those committing *rape* frequently have ears *ad ansa*. The latter often have brilliant eyes, delicate faces, and tumid lips and eyelids; as a rule they are of delicate structure and sometimes hunchbacked. . . . The *habitual homicides* have cold, glassy eyes, immobile and sometimes sanguine and inflamed; the nose, always large, is frequently acquiline or, rather, hooked; the jaws are strong, the cheekbones large, the hair curly, dark, and abundant; the beard is frequently thin, the canine teeth well developed and the lips delicate; frequent nystagmus and unilateral facial contractions, with a baring of the teeth and a contraction of the jaws. . . . In general, *all criminals* have ears *ad ansa*, abundant hair, thin beard, prominent frontal sinuses, protruding chin, large cheekbones, etc. (3, pp. 96-8).

In many of these features he saw arguments to demonstrate "the analogy between the European criminal and the Australian or Mongolian man," caused by "the arrested development of an organ, or part of an organ, in the fetal stage; the part thus arrested in its evolution augments in volume but conserves the embryonic structure, thus rendering visible a primeordeal state, which was normal in the fetus" (4, p. 1062).

The atavistic theory could not, however, withstand the criticism and the facts revealed by further study.

Lombroso soon admitted, with his usual intellectual integrity, that many of the anomalies that he had found in the criminal could not be explained by atavism. These anomalies such as cranial asymmetries, histological anomalies, etc., were apparently due to some pathological origin, to a morbid agent which during the fetal stage of an individual caused the arrest of the development of certain organs, and particularly of the nerve centers. After a long search for this agent, he identified it with epilepsy, which "alone could explain the purely pathological and non-atavistic phenomena in the delinquent" (2, v. II, p. 59). This identification by no means excluded the process of atavism nor was it complete. "The criminal epileptic is rather an exaggeration of the criminal moral imbecile, as the latter is of the born delinquent and as the born delinquent, in turn, is an exaggeration of many forms of occasional delinquents or criminaloids" (2, v. II, p. 60). The exact relationship between these groups he made clear by a diagram<sup>3</sup> in which all the delinquents, regardless of type, were placed on an "epileptoid" basis.

Did Lombroso believe in an organic origin of all criminal behavior? Some of his friends (*cf.* 9) have tried to show that toward the end of his career he accepted a purely social origin of certain forms of criminality, but this, I believe, is erroneous. In spite of the numerous opinions to the contrary, there is no doubt about the fact that Lombroso recognized the importance of the social and telluric factors in

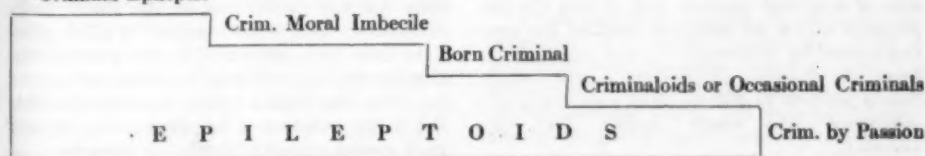
crime. In 1875, before Ferri had evolved his tripartite classification (anthropological, telluric and social factors), he said, for instance:

There is no crime which does not have its roots in numerous causes. If these often merge or are interdependent, we should, nevertheless, obedient to a scholastic as well as to a linguistic necessity, consider them one by one, as is done with all other human phenomena, to which practically never a single cause can be assigned (6).

He then proceeds to discuss at length the influence of meteorological and cultural factors on crime. But, although he appreciated the exciting and the restraining effect of the environment, he never brought himself to admit the existence of a normal delinquent, one that is "provoked and not revealed" by social conditions. The confusion may be due to the fact that Lombroso, probably influenced by Garofalo's theory of "natural crime," divided all legal criminals into two groups, the true and the false. His studies and his theories deal only with the former, who possessed organic, mental or physical characteristics, which explained their criminal behavior. It was in this group that he found the stigmata<sup>4</sup> of the delinquent, numerous and pronounced in the worst types and few and slight among the occasional delinquents and the criminals by passion, who were close to the borderline of normality. The false or "pseudo-

<sup>4</sup> Lombroso never regarded these stigmata as causes of crime but only as signs of physical and mental disorders or abnormalities, which stimulated or facilitated anti-social behavior.

### <sup>3</sup> Criminal Epileptic



criminals" on the other hand were "not criminals either in the eyes of society or of anthropology." This group included those who unintentionally committed criminal acts or those who broke laws enacted "by a dominant opinion or prejudice," poachers, smugglers, real political criminals, etc. (2, v. II, p. 491). This distinction being clear, it is obvious that Lombroso, in spite of the very great modifications in his theories, never departed from a monogenetic concept of crime.<sup>5</sup>

#### STUDIES OF ENDOCRINOLOGISTS

The researches of the endocrinologists are renewing the interest in the theories of Lombroso. Aided by the anthropometric methods developed by De Giovanni and Viola for diagnostic use in clinical and general medicine, scientists like Lugaro, Buscaino, Pende, Vidoni, Landogna-Cassone, and others have begun to study the delinquent

<sup>5</sup> The monogenetic concept of crime has been accepted and developed by Patrizi from a strictly psychological point of view. (*Dopo Lombroso. Nuove correnti nello studio della genialità e del delitto*. 274 pp. Soc. Ed. Libr. Milan, 1916.) His paradoxical conclusion that "all criminals are born criminals" has never been accepted by the rest of Lombroso's disciples, although lately Funaioli has categorically affirmed the biological theory of the criminal. (*I criminaloidi nell'esercito*. Riv. di disc. carcerarie 49:116 ff., 1924.) The relationship between epilepsy and criminality has been further studied by Masini (*Epilessia e delitto*, Genova, 1914) and Roncoroni (*Nuovi indirizzi della antropologia criminale*. Quaderni di Psichiatria 4:93-96, 1917), while Consiglio (*Nuove indagini di psichiatria e sociologia criminale*. Riv. ital. di sociol. 19:539-50, 1915) has studied the general relationship between somatic structure and criminal behavior. To-day the leading exponents of criminal anthropology in Italy admit the existence of a normal criminal and of late the importance of the psychological method has been emphasized by Ottolenghi (11) and especially by Sante de Sanctis. (*Psichiatria e criminologia*. Scuola positiva 31:205-24, 1921, and *Problemi e programmi della scuola positiva*. Ibid., pp. 157-63.)

from a point of view which throws new light on the Lombrosan doctrines.<sup>6</sup>

Lugaro seems to have been the first to suggest endocrinotherapy as a means of modifying the character of certain types of delinquents, but it was not until shortly before the war that the attention of the criminologists was called to the possibilities which this suggestion implied. In 1914, Professor Papillault, of the School of Anthropology of Paris, published an article in Lombroso's Archives (12) in which he accused the Italian School of having contributed to the failure of the biological theory of the criminal by spending its efforts in empty polemics instead of in patient and painstaking research. He intimated that the study of the glands of internal secretion might prove of particular value in criminology, since everything seemed to point toward a close relationship between these glands and the constitutional and temperamental peculiarities of the individual. Later in the year the argument was repeated by Carrara (1), but the war came and with it other needs and interests. The question came up for discussion again when peace arrived and during the last five years several interesting contributions have been made.

Says Lugaro:

There is in the psycho-physiological mechanism something which is based not on anatomy but on chemistry, not on structure but on the composition of the body fluids. . . . This chemical function attains its perfection in special organs, the glands of internal secretion, which manufacture special substances (hormones)

<sup>6</sup> The writer has purposely limited his references to Italy, although that country has not been the sole contributor to the study under discussion. But, while scientists of other countries have been interested in the general relationship between endocrine functions and human behavior, the Italian endocrinologists, possibly due to the influence of Lombroso, seem to have paid special attention to criminal behavior.

which excite or inhibit the functional activity and the material exchanges of distant tissues, regulate somatic growth and, consequently, psychic development (8, p. 255).

Upon the harmonious functioning of these glands, or the *hormonic equilibrium* as Pende calls it, depends the harmonious development of the human personality. Pende conceives this personality as threefold, consisting of a morphological or physical, a neuro-psychological, and a dynamo-humoral or temperamental phase; all three of them are profoundly dependent upon the *hormonic equilibrium*. Such an integral conception of the function of the endocrine apparatus has one great advantage; it enables one "to explain by the same physiological mechanism both the physical type, the psychic character, and the 'humoral' temperament of the individual, permitting us to see the relationship, in the past so mysterious, which exists between the physical and the moral spheres" (15, p. 124).

Already in 1912, Pende formulated the theory that the rhythmic development of an individual depended upon the well balanced action of two *hormonic "chains"* or categories,

one being destined to stimulate the development of the vegetative life, the anabolic processes, and the growth of the body mass, the other serving to stimulate the development of the life of relationships, the catabolic processes, and the morphological evolution of the individual. If the two *hormonic* systems, due to hereditary disposition, acted rhythmically and in a well-balanced manner, the result would be a normal racial type in whom the two systems, the vegetative and the animal, and the two developmental phases, the morphological and the ponderable, would be well harmonized. If, however, one or the other of the *hormonic* categories prevailed, the result would be types deviating from the normal and corresponding to what Viola, on the basis of

anthropometric research, called the *micro-splanchnic* type (in which the development of the animal system prevailed) and the *megalo-splanchnic* type (in which the development of the vegetative system prevailed). If, due to hereditary *hormonic* hybridism or *hormonic* disturbances during the period of growth, neither category dominates, both of them functioning rhythmically and irregularly, a mixed or hybrid type would result (15, p. 129).

Only after careful examination is it possible to establish the *hormonic* formula which expresses the exact relationship between the two *hormonic* categories and thus prepares the ground for the analysis of an individual's personality.

What value has this endocrinological analysis for the study of the delinquent in general and the special types of delinquents in particular? Such an analysis,

to-day hardly begun, demonstrates a great frequency of morphological anomalies,<sup>7</sup> which we are accustomed to find in endocrinopathic types, *i.e.* in individuals who are affected by alterations in the glands of internal secretion. Particularly frequent are the characteristics of hyperthyroidism or of hyperpituitarism, to which we might add the stigmata of altered internal genital secretions. The exaggerated development of the skeleton and of the face, particularly of the cheekbones and of the jaw, the great, almost apelike, length of the arms, the abnormal size of hands and feet, the thick and unctuous skin, perhaps also excessive or diminished sensitiveness to pain, characteristics not rarely observed in certain categories of delinquents, are somatic signs in individuals who present a congenital or acquired overfunctioning of the pituitary gland. . . . Still more frequent among criminals,

<sup>7</sup> These anomalies may be due to hereditary disposition or to some toxic origin. Even a traumatic origin has been observed. Ceni, for instance, has demonstrated a causal relationship between cerebral lesions and arrested development of the genital glands and this has been confirmed by Vidoni and others (16, p. 115).



particularly among criminals by impulse or passion, are the somatic and stigmata of an excessive thyroidal secretion, such as total hypertrichosis or exaggerated development of the hair, particularly of the eyebrows and of the scalp: bright and inflamed eyes, heart-irregularities, rapid vaso-motor reflexes . . . all characteristic of the hyperthyroid type. . . . To the above I shall simply add the influence which abnormal internal genital secretions, especially during certain critical periods in life, may exercise in the determination of sexual and passion crimes, an influence which is proved by the frequent existence among sex delinquents of the stigmata of hypergenitalism and heterosexualism, i.e. of masculine characteristics among female criminals and of feminine characteristics among male criminals (14, pp. 32-4).

In his *Values and Limits of Endocrinology in the Study of the Delinquent* (16, pp. 99-111), Vidoni goes even further. While he does not pretend to establish, from an anthropological point of view, "clear distinctions between the various categories of delinquents," thereby repeating "the errors which criminal anthropology committed during its early stage," he nevertheless considers it legitimate to try to determine the "constitution" to which a particular form of crime most easily corresponds. Using the classification developed by Pende along the lines already traced by De Giovanni and Viola, he finds a great preponderance among non-violent criminals, thieves, pickpockets, etc., of the so called *hypovegetative* type (Viola's microsplanchnic type), while among violent criminals, robbers, murderers, etc., the *hypervegetative* type prevails (Viola's megalosplanchnic type). The latter he claims to have found in fifty-five per cent of violent and only in twelve per cent of non-violent criminals.<sup>8</sup>

<sup>8</sup> Cf. Boxich, G. I., *Contributo allo studio morfologico-clinico e antropologico dei delinquenti*. Atti della Società Romana di Antropologia 11:229, 299, 1905.

As to special endocrine disturbances, he has noticed frequent alterations in the primary, secondary, and even tertiary sex characters of thieves, forgers, etc., pointing to a deficient functioning of the glands of internal genital secretion. The same type of unbalanced hormonal condition is found among prostitutes, a fact which would explain the frequency in this group of masculine characteristics, which Lombroso considered as signs of a process of individual degeneration. The frequent appearance of the "mongoloid facies" in prostitutes, Vidoni believes due to insufficient thyroid secretion coupled with other endocrine disorders.

With regard to authors of violent sex crimes "it is worth noting that in the morphological field my observations confirm the old statements of Lombroso and the more recent ones by Goring, which connect these crimes with hypergenitalism." Vidoni guards himself against ascribing all sex crimes to this origin and willingly admits that other factors may be of much greater importance, such as alcoholism, which paralyzes the centers of inhibition and reveals the brutal desires.

Though as yet only suggestive, Vidoni considers the above observations as indicative of a relationship between the form of a crime and the delinquent's constitution "in its intrinsic significance and not in its quality of an opportune means for the attainment of a certain end," a theory which Tarde made popular and which has recently found a champion in Patrizi.

Besides regulating the morphological development of the body, the endocrine glands exercise a great influence over our psychic life.

Says Lugaro:

The nervous system is not exempt from the action of the endocrine glands. . . .

The hormonal actions are generally represented as having a tonic or a depressing effect on the various sections of the sympathetic nervous system in play. In turn, the sympathetic nervous system acts on the glands of internal secretion which, like all glands, obey nervous stimuli. Thus there are established veritable circles of action between the nervous system and the glandular secretions. . . . The endocrine glands are intimately connected with the affective life and consequently with the character. On their development and action depends not only the somatic type but the psychic type or variations of character. To their changes during the course of a life time we owe the character types which succeed each other in the same individual. Even psychological differences between the sexes depend on internal secretions. The experiences of Pézard and Steinach clearly show that in both sexes the nervous structures are potentially bisexual and that it is only under the influence of the organs of internal secretion of the one or of the other sex that the respective psychic sexual characteristics are developed (8, pp. 256-8).

The summary by Clerici (quoted in 16, pp. 94-7) establishes, in a clear if not complete manner, the relationships between the character type and the activity of the most important of the endocrine organs.

The normal character results naturally from the harmonious and orderly functioning of the endocrine glands. When the action of one of these glands is either exaggerated or weakened beyond a certain degree, this disturbance, provoking alterations in the visceral fluids, unbalances the functions of the sympathetic nervous system and influences the emotions and, therefore, the formation of the character. In such cases the expressions of the latter prove typical, as can be seen from the following data which refer to some of the principal endocrine glands, the thyroid, the pituitary, the adrenal, and the genital. These glands have, in general, "sthenic" actions, *i.e.* concur in giving force to the emotions and thus indirectly to the entire

mental life. But the general color of the emotions and, therefore, the quality of the character differ depending upon which glandular function dominates. For instance, when the thyroid function prevails, the emotions, in addition to being strong, tend to have a dark color, a color of pain. The result is mental instability, restlessness, and inconsistency of purpose; the vision of life is pessimistic and in some instances the character becomes so impulsive that the moral sentiments are vanquished and the subject brought to commit crimes of violence. Due to rapid affective changes, the intelligence is constantly alert and bright.

When, instead, the action of the adrenal glands prevails, the emotions are strong and of a light, gay tone; the temperament is serene and expansive, the activity spontaneous and prompt, the sense of personality intense and sustained, the will firm, the intelligence no less alert than in hyperthyroidism but better balanced. The result is an energetic character on a constant background of optimism.

When the action of the genital glands dominates, the emotional tone is usually light and as a result the temperament is expansive and the subject enterprising and loquacious, but the development of the higher psychic life is retarded so that, even in the instances where, by exception, the intelligence reaches a high point, the moral sense remains rudimental. . . .

Finally, when the pituitary action prevails things go from bad to worse: the emotions restrict themselves to the field of an inferior egotism and thus, although the temperament may be gay and the personality conscious and active, there are deviations in the sphere of the moral sentiments. The result is a character tending to crimes of violence: robbery, assault, homicide. *Interesting coincidences have been pointed out between the bodily peculiarities of the individuals affected by hyper-pituitarism and the stigmata of the born delinquent as they have been pointed out by Lombroso and his disciples.*<sup>9</sup>

In the inverse cases, *i.e.* in those where there is a deficiency in the functioning of the above glands, the affective spheres

<sup>9</sup> My italics.

cannot organize themselves properly due to the insufficiency of the prime material and therefore more or less serious gaps in the character show themselves. But even so typical differences appear depending upon which gland is deficient. In hypothyroidism the temperament is apathetic and phlegmatic, the intelligence is poorly developed and there is a marked absence of critical power; the result is a "cretinoid" type.

In hypopituitarism, the intelligence reaches sufficient development, the temperament is mild, indolent, and affectionate, but the character is never consolidated. Traits of irreflexion and capriciousness, proper to childhood, persist and when the physical aspect . . . is gentle and the manner insinuating, the result is a character of which people say, "He is sympathetic but he cannot be relied upon." Finally, in the most serious cases there exists a clear tendency to non-violent crimes, particularly thefts.

But the most unfortunate individuals are those suffering from hypoadrenalism, *i.e.* insufficient secretion of the adrenal glands, which exercises very potent influences on the activity of the viscera, the most profound springs of the emotions. When their secretion becomes insufficient, a disaster truly occurs; the temperament becomes melancholy, the susceptibility to moral and physical pain is raised and life becomes an intolerable burden.

All the endocrinologists I have quoted are anxious in their desire to avoid all overemphasis and all extreme interpretations of the causative value of any given "hormonic formula" in the determination of personality and behavior. Pende reminds us that one must always consider the possibility of an indirect or entirely independent hormonal action as well as the varying hormonal receptivity of different individuals.

Nervous and hormonal stimuli cannot create anything *ex novo*; they can only stimulate and regulate the real or potential morphogenetic, dynamic, bio-chemical, and psychic character already existing in the

organs and tissues of the individual. These characters have an origin quite independent of that of the hormonal stimuli (16, p. viii).

The importance of heredity must, therefore, never be forgotten by the endocrinologist.

But there is another reason for caution. In our days of "polycasuality" and "conditionalism" it would be folly to claim that

an individual who has an unbalanced hormonal system must inevitably commit crime or a certain type of crime, even though he should happen to be endowed with a poorly constructed neuro-psychic apparatus. . . . As yet we are too far from knowing the laws governing the life of the spirit to pretend to explain the deviations of the moral conscience exclusively by physiological, somatic, or temperamental anomalies. . . . And yet, the psychophysical unity of Man appears more and more an undisputable truth both to the clinician and to the anthropo-psychologist, a truth . . . more felt, however, than understood (13, pp. 147-8).

With these reserves in mind, Pende concludes by saying that the few facts which have so far been gathered by the endocrinologists

represent the first lines of orientation of a whole new chapter of criminal anthropology, which promises to be of both theoretical and practical value. They permit us to understand an enigmatic and, therefore, most criticized phase of the Lombrosen doctrines, *i.e.* the relationship between certain somatic anomalies of the delinquents and their special psychic abnormalities. The physiological cause of these relationships we can even now place, at least in some more obvious cases, in the functional disequilibrium of the endocrine organs,<sup>10</sup> which regulate the morphogenesis of a given part of the body as well as the integrity of the psychic life (14, p. 34).

He foresees the practical value of these researches, hoping that the profound endocrinological examination

<sup>10</sup> My italics.

of the criminals, particularly the precocious ones, will reveal functional alterations of some endocrine glands without serious concomitant evolutive anomalies in the cerebral apparatus, permitting in some cases at least, the application of modern medical and surgical methods of endocrinotherapy with an aim of curing the individual of his criminal behavior and thus modify his character (13, p. 155).

#### FUSION OF OLD AND MODERN CONCEPTS

It is natural that Lombroso's friends and disciples should greet with pleasure the discoveries of the endocrinologists, who seem to bring new arguments to justify some of the master's most ridiculed ideas. Says Ottolenghi (11, p. 1039):

We who have remained convinced of the importance of the morphological study of the criminal note with true enthusiasm that new confirmation is being brought by the endocrinological researches on the correlation between morphological and psychological characteristics on the basis of a common causal relationship.

The same sentiment was expressed by Enrico Morselli, one of Italy's leading psychiatrists, in his opening address to the 16th Congress of the Italian Phreniatric Society. Having made the observation that none of the great fundamental directives, which were given to the study of mental pathology in the fourth quarter of the 19th century, had lost their effectiveness, he continued:

We still need to examine in the insane, the criminal, the prostitute, the suicide, etc., the profound and prime reasons for their intellectual, effective, and volitive anomalies; their fate appears more than ever the result of the psychophysical constitution of their personality, as was and is still sustained by the Italian School. With no little pride are we assisting in the installation of those anthropo-psychiatric directives in the field of clinical and general

medicine. We easily recognize these old *cavalli di ritorno*. The only difference lies in the fusion of the old and classical somatological concepts with the new ideas derived from the discoveries of endocrinology, which sees in the "hormonic formula" the probable reason for the mental and bodily characteristics of the individual. And, in order to establish these individual or "personality types," we notice the reappearance of those measurements, those somatometric proportions, those physiological comparisons, which formerly distinguished our School (10, pp. 15-16).

The future alone can judge the value of the endocrinological analysis of the delinquent. It is, however, fitting that this new orientation of the study of the relationship between organic structure and criminal conduct should come from the land of Lombroso.

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## Does Probation Aid or Prevent Crime?

By ALICE C. SMITH

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IT is my firm conviction that probation does prevent crime. Probation is here to stay. Probation safeguards the youth by giving chance and opportunities for improvement in conduct disorders under normal conditions, which cannot exist even in the best child-caring, educational or correctional institutions.

By this method the defendant feels that he is fairly treated, does not nurse a grudge against society, does not harbor a revengeful attitude, and welcomes a chance to show what he is capable of doing in a favorable environment after the causes of misconduct have been either removed, corrected or simplified. In a large percentage of cases, an adjustment made through a reconciliation with her family and a return to home in a distant city, is sufficient encouragement to bring a girl to her senses and profit by a single bitter experience. Many marry, settle down and become capable, self-respecting women.

In the modern methods of dealing with the probationer, the rehabilitation of the family from which the person comes is given foremost consideration. The efforts expended in improving housing conditions, watching the children of school age in their recreation hours, providing material assistance where economic pressure exists, urging religious contact in the youth, helping to make adjustments of those seeking employment—all tend to prevent the spread of delinquency and crime.

For the usual run of cases of men and women who come in conflict with the law it is no longer a mooted question that probation is not only humane but actually useful as a preventive of crime.

In the Women's Court, where I have worked for the greater part of my life, a large number of unfortunate girls are brought in whom the law designates as vagrants, streetwalkers or common prostitutes. Naturally there are a large number of first offenders. It is

the beginner not yet hardened and inexperienced who is caught most easily. To give such a first offender a chance on probation is surely giving her a chance in the fullest sense of the word. We know by experience that if she is placed on probation there is some probability of her ways being corrected, her life changed and her contact with the law and the courts terminated. If this same first offender is sent to prison there is no probability and only the slightest possibility of that girl redeeming herself. When a defendant is placed on probation, employment is found and, if the girl has a home or relatives or friends to whom she may be properly entrusted, she is placed with them. Contact is maintained with the probation officer in a manner that is not humiliating or embarrassing in the slightest degree. The girl is protected throughout her probationary period and in her employment against knowledge of her misfortune leaking out. The girl, timid, suspicious, uncertain at first, slowly commences to regain confidence in herself and then in others.

Once she has regained that confidence she is saved.

Cases of petty larceny, shoplifters, and simple assaults require very careful study and treatment. Many of the shoplifters are entirely cured with their first arrest and saved by probation. It is surprising to see how many of these shoplifting cases are merely the result of an impulse which if properly treated at the beginning may be cured. Cases of simple assault where a quarrel develops into physical encounter, sometimes purely family or labor disputes—no serious injury inflicted on anyone—are proper cases for probation and in the greater percentage successful. But take any of these cases and place the stigma of imprisonment, and it is but natural that such a resentment will be aroused as to make that person antagonistic to society for the rest of her days.

Probation properly and equally applied is a preventive of crime. The idea of probation is merciful. Its application is scientific. It must be offered in the proper spirit and applied intelligently.

## Probation and Parole in the County Courts<sup>1</sup> of Pennsylvania

By LEON STERN

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**I**N using the terms probation and parole many of us forget that these words have a scientific connotation and that when used in the legal sense they are not synonymous, although in ordinary speech and writing they may be interchangeable. While probation

is the conditional release after conviction, and is a substitute for commitment to jail or to a penal institution, parole is the conditional release after a portion of the sentence imposed by the court has been served. A man placed on probation is saved from a prison experience, while the man who is paroled has had to undergo the punishment of incarceration prior to parole.

However, in Pennsylvania even the

<sup>1</sup> This paper is based on the study made for the Pennsylvania Committee on Penal Affairs and the National Probation Association of sixty-five counties in Pennsylvania.

learned judges use the terms probation and parole at random, so that a judge may speak of a child discharged on probation to a probation officer as being paroled, and may announce that John X, who is now released from jail after having served one-half of his jail term, is placed on probation to Probation Officer Y.

Of course a scientific distinction between probation and parole has no value when there is no differentiation in treatment. But to one who thinks of the probation and parole system as pieces of social machinery, the social rehabilitation of a man or woman saved from a prison experience and placed on probation requires an altogether different method of approach and handling than does the restoration to society of a man or woman or child who is paroled. In one case there is no stigma of prison to eradicate, while in the other the individual must be helped to overcome an unforgettable experience.

The legal notion of adult probation and parole had its origin in the attempt to mitigate the harshness of the law. There was originally no thought of the reform of the individual. Parole legally developed from the commutation of sentence, while probation developed from the English practice of deferring judgment, so that in many cases the individual was never called up for sentence.

The social notion of probation and parole predicates a definite aim, the rehabilitation of the individual. This social notion has become fused in part with the legal notion in those courts that are more completely socialized. But the social implications are variously interpreted by most of the judges; some accept but a modicum of the social aim, others accept it completely, especially for children and young offenders. Socially-minded judges, probation officers and social workers hold

that if probation and parole are to be more than expedients for extending mercy, if their aim is the reclamation of the individual and the protection of society, then probation and parole must be developed as social practices. The courts must therefore, in their treatment, use the case work method of the physician and social worker.

#### STEPS OF PROCEDURE

This requires a number of steps, examination or investigation, study and diagnosis, with a report to the judge before sentence is passed, so that the decision to use or not to use probation may be wisely made. These steps precedent to the passing of sentence necessitate not only a social study of the individual's home life and work habits, and economic resources, but also the calling in of medical, psychological or psychiatric aid to assist in the physical, mental and emotional diagnosis. For what avails it to put a man of criminal type and low grade mentality on probation, or to burden a probation officer with the reformation of an abnormally sexed woman, or to ask a parole officer to collect an impossible fine from a sick man who has been paroled to pay his fine in installments, but who is unable to earn even the small sum required to support himself and to meet his weekly debt to justice?

After the decision as to the nature of probation or parole has been made with the aid of the data collected by the probation or parole officer, and the individual has been conditionally released, then it remains for the probation or parole officer to formulate a plan for rehabilitation based on the facts gathered and the diagnosis made, using the social and economic resources of the community to carry out the plan that will make the individual a self-respecting and self-supporting member of

society, able to take care of himself and his family, if he has one. These are the standards for treatment by means of probation and parole that are coming to be recognized all over the country as necessary if the probation and parole system is to attain its social aim.

In the development of probation and parole as social practices there are four factors to be taken into account: (1) the law; (2) the attitude and equipment of the judge; (3) the attitude and equipment of the probation officer; (4) the community.

Probation and parole must be worked out within the hedge of the law which sometimes presses close.

#### (I) THE LAW

Pennsylvania is not a code state. Probation and parole have been provided for in various acts, their amendments and supplements.

*Juveniles.*—The Juvenile Court Act of 1903, April 23, P. L. 274, with its amendments and supplements provides for probation and for such investigation by the probation officer as the court may direct. In the preamble of the Act, the decisions of the Supreme Court have stated the law to be for the protection of the child and for its "care and moral encouragement."

*Adults.*—There is no social intent expressed in the laws providing probation and parole for adults or individuals over the age of sixteen. The Act of May 10, 1909, P. L. 495, as re-enacted and supplemented by the Act of June 19, 1911, P. L. 1055, provides for adult probation for persons convicted of crime. This form of probation is restricted to first offenders and those who have not committed the graver crimes, which are specifically mentioned and include "murder, administering poison, kidnapping, incest, sodomy, buggery, rape, assault and battery with intent to ravish, arson,

robbery, or burglary." The length of probation is limited to the maximum term for which the offender might have been sentenced. Discharge is provided for when the conditions of probation have been satisfactorily met. The payment of fines in installments may be directed as one of the terms of probation in any case where a fine only is imposed. The Adult Probation Act, since it provides for the probation of offenders convicted of crime, makes no provision for investigation that might aid the judge to decide upon the advantage or disadvantage of probation for the convicted man. This, of course, narrows the work of the probation officer in the adult cases.

By the Act of June 19, 1911, P. L. 1059, the judge may parole from county jails. This has been amended by the Act of May 5, 1921, P. L. 379 and the Act of May 11, 1923, P. L. 204, which requires that a petition for hearing for parole and ten days' notice to the prosecutor and district attorney be given. Paroled persons may be re-committed for violation of parole, re-paroled and committed again for a second violation.

There is legal provision made also for parole from the state prisons to parole officers appointed by the prison boards. This paper, however, only deals with the work of probation officers and parole officers appointed by county judges.

*Non-support cases.*—The payment of non-support orders to a probation officer, who may also be required to make investigations as the court may direct, is also provided for in the Act of June 12, 1913, P. L. 502-3.

*Illegitimate children.*—Fathers of illegitimate children may be placed on probation to pay a court order by the Act of July 11, 1917, P. L. 774.

*Sex offenders.*—Sex offenders, men and women, are of course included in



the act to be placed on probation and are to be paroled under the adult probation and parole acts. However, the Act of June 30, 1923, provides for the release of paroled prostitutes, committed to private institutions, to be placed in charge and under the supervision of a designated probation officer, until the expiration of sentence.

The laws for probation and parole are altogether negative in character and set no standards and present no aim, except those designated for the children. Social courts have been set up by law in Philadelphia and in Allegheny counties—the Municipal Court of Philadelphia and the Allegheny County Court. These have special machinery for the hearing of juvenile cases and non-support cases. In the rest of the sixty-five counties there are no special non-support or domestic relations courts. All non-support proceedings begin in the office of the justice of the peace. Therefore, in these jurisdictions the work of the probation officer is limited to cases of family difficulty. In the up-state jurisdictions the juvenile courts are divisions of the Quarter Sessions Courts. Detention facilities for children awaiting trial are provided for cities in the first and second class that may establish houses of detention. The other counties may have detention rooms. Counties of the third class have special legislation concerning the management of detention homes. According to Pennsylvania law, children may not be kept in police stations, or jails, pending trial.

## (2) THE JUDGE

The judge completely determines probation and parole for those individuals who may be put on probation under the law, and for those paroled from county jails, except in so far as the Act of 1923, known as the Ludlow Act,

has fixed the limits of a minimum sentence, thereby automatically fixing the minimum that a man must serve before parole. Since both probation and parole are permissible for adults, it depends on which way the judge leans whether he uses parole or probation more generally. The social viewpoint of the judge is the most important factor in probation and parole. It depends on this social attitude whether the judge will receive and be guided by the investigations or studies made or obtained by the probation officers. If his policy is old fashioned, the probation officer has no other work than policing. If the judge is forward looking and believes in the social rehabilitation of the delinquent through probation and parole, a real system of probation and parole is possible.

## (3) PROBATION AND PAROLE OFFICERS

In Pennsylvania the probation and county parole officers need have no equipment. The law only requires the court to appoint a discreet person, otherwise he may appoint "a butcher, baker or candlestick maker." The appointments are made by the judges and the salaries are paid by the county commissioners. The law also requires that women probation officers supervise women and girls on probation, and men probation officers supervise men and boys on probation. The maximum salary is eighteen hundred dollars per annum for juvenile probation officers, except in Allegheny and Philadelphia counties where there is special legislation. It seems that there is no maximum salary stipulated for adult probation and parole officers. The fact that no training, education, or other qualification is required for appointment has its influence on the probation and parole system. Untrained and uneducated officers appointed under the present law cannot carry out probation and

parole plans that go beyond policing, friendly interest, or collection of money. Pennsylvania spends less than \$100,000 per annum for the salaries of probation and parole officers in sixty-five counties, (excluding Philadelphia and Allegheny counties).

Probation officers usually act also as county parole officers without additional pay. But in one county the probation officer gets \$1800 per year as probation officer and another \$1800 per year for acting as parole officer.

#### (4) THE COMMUNITY

The community interest in probation and parole is an important factor. The lack of interest in probation and parole often means that the county fails to make provision for the salary of a probation or parole officer so that even large counties do not have the system. The extent to which a community is socialized is an important factor. Where there are no social agencies or medical facilities which the officers may use for social or medical diagnosis, then probation and parole are handicapped. It can only be expected that the work of the probation and parole officers should attain the standards of work maintained by the other social agencies in the community in the county.

#### JUVENILE PROBATION SYSTEM

To compare the social aim of the use of probation and parole and the authority the county has to use the system with the actual administration of the system in Pennsylvania is perhaps invaluable to the inquirer. Twenty-nine of the fifty-four up-state jurisdictions have full time paid officers for juveniles. Some of the jurisdictions have a probation service that attempts to treat the problem of delinquency. It is recognized in all work with children that physical and mental diagnosis is

the first step in social treatment. The majority of the Pennsylvania juvenile court judges use medical diagnosis most sparingly. Some half dozen or more of the probation officers settle children's problems out of court. The informal settlement of cases by a probation officer which saves a child from a court hearing is not permitted by many of the judges. The probation officer does not begin work until after trial.

The success of a juvenile probation system depends on the arrangements made to hold a child until trial. According to the Boston plan, children are detained at home under the care of a probation officer; according to the Philadelphia plan, children are detained in a completely equipped House of Detention. Although the law forbids it, children are detained in jails in thirty-eight of the counties of Pennsylvania, because there is no provision for detention. Detention rooms are nonexistent and often there are no probation officers to supervise the child pending trial. At the time of the study one child, fourteen years old, was held as a material witness in a solitary cell because he had said that he saw two men commit a murder. Often the women's section of the jail—where the women bootleggers and prostitutes are held—is used for juvenile detention. Where there are probation officers for children home visits are made, but the office reporting system is also used to a great extent. Many of the counties have probation officers supervising children who are either too busy, too old or unfitted for their tasks. One probation officer is the superintendent of a large junior high school; six of them are over seventy years of age; one is a district attorney; another is a detective; another is a constable.

The State Department of Welfare has, however, done much educational work with the juvenile probation

officers and it is possible to look forward to a more socialized system for the future. There are twenty-three paid adult probation officers, some of these also acting as juvenile officers.

#### ADULT PROBATION AND PAROLE SYSTEM

The adult probation and parole system suffers a handicap because the judges generally have little faith in it as a reformation process, except to young men and women. Many of them prefer to parole a man after he has served a period in jail. Parole presupposes a period of preparation in a penal institution where the man may receive some discipline, learn a trade, and perhaps fill in some gaps in his elementary education. Very few of the county jails have work, the prisoners loiter about in idleness and often in dirt, waiting for their time to expire. A man paroled from such an institution has received nothing that will enable parole to restore him to society. Seventy-five per cent of the men placed on probation were placed on probation to pay a fine in installments. This is also true of those paroled. Liquor offenders make up the bulk of the adults placed on probation or parole.

The only object of the placing on probation is the collection of the fine on installments so that the county may increase its revenues. One of the largest counties in the state had only two men placed on probation to the probation officers, while the others who were not imprisoned had sentence suspended or were given fines, etc. One judge gives every liquor offender who comes before him for the first time a fine and two years probation to the county detectives; another refuses probation or parole to any one guilty of that crime. A third judge expressed his attitude toward probation and parole as follows: "I do not believe in

probation for liquor offenders. It has no value. There are two ways in which you can reform a bootlegger: by making a hole in his pocket-book and by depriving him of his liberty. I fine bootleggers heavily and give them a term in jail with the understanding that after they have served a certain part of their sentence they may be paroled to pay the probation officer a fine, either in cash or on installments, depending upon their economic circumstances. I never send a woman bootlegger to jail if I can help it. I give her a chance on probation and a fine." One county in lieu of fine and probation, or fine and parole, asks the liquor offender to contribute a sum of money to charity.

#### SOME RUDIMENTARY METHODS

The conditions under which an adult is placed on probation or parole very often are not stated. When they are stated, the general tenor is as follows: Probationer is to be of good behavior, work steadily, and support his family, abstain from drink, and is not to remove from the jurisdiction of the court. The probationer is required to report to the probation officer monthly or at such times as the probation officer may direct. Written reports are accepted in lieu of personal visits when the probationer does not live in or near the county seat. Home visits are not made by the probation officer either to probationers or parolees. Some of the courts follow up their probationers and through the probation officer obtain a report at the end of the probation or parole period, which has been fixed in advance by the court. If the report is favorable the probationer or parolee is formally discharged, and the payment of a last instalment of the fine terminates probation without any other formality.

In one county the probation officer,

who acts as adult and juvenile probation officer, had 385 liquor offenders on probation and parole. He also had a number of children on probation. The children's cases were supervised in a perfunctory fashion, their oversight being left to co-operating individuals. The adult probationers and parolees made reports in person on Saturday mornings. The following is a typical interview.

"Come in, Mike," says the probation officer to one of his charges, waiting with a large group of fellow-probationers in the outer office. Mike shambles in. "Are you working, Mike?"

"Yes."

"Are you home with your family?"

"Yes."

"Are you drinking any?"

"No."

"Do you make any hooch?"

"No."

As if acting on inspiration the probation officer asks another question: "If you are not making any hooch, are you selling any?"

"No."

"Have you got your money for the fine?"

"Yes."

"Alright, here's your receipt. Now be good. Good-bye."

"Good-bye."

In one small county where there is no probation officer, the court clerk acted as probation and parole officer. His method of probation and parole was to have the individual sign a long statement in which he enumerated by title and pamphlet law number the acts of the legislature which the probationer had violated and which he agreed in writing not to violate again. In the same way the probationer agreed to abide by the terms of the probation. This statement was signed every time

the probationer visited the court house on his or her regular reporting day.

Some of the county courts require a man to report personally to the judge in open court once every quarter sessions. The man or woman is thus made to re-enact "in petto" the court experience of his trial and conviction. The notion here is surely not reformation, but to give the court assurance by the individual's physical presence and his reply to questions put by the judge that he has not committed another wrongful act.

Seven of the up-state jurisdictions take advantage of the law to appoint a desertion probation officer. The officers in these courts make no attempt to reconcile husband and wife, nor to help re-establish the broken home. Their one aim is to collect a support order from the husband and to turn it over to the wife. No investigations of the causes of the domestic difficulty are made, nor are home visits part of the plan. The husband sends in his money to the court, the wife collects it. Probation officers also collect orders made for the support of illegitimate children in fornication and bastardy cases. There is no attempt to do protective work with young girls and their children in these cases. The procedure in these so-called fornication and bastardy cases is chaotic. Many of the courts make a support order for seven years, others for five, some for ten years, and still others for fourteen and sixteen years. In one jurisdiction, one judge makes the order for fourteen years while his associate on the same bench makes the order invariably for sixteen years. A judge in a rural county has an unchangeable order of one dollar a week for seven years for every case of illegitimacy brought into his court. A social investigation of the facts by a probation officer is, according to him, unnecessary, because



his aim is to discourage bastardy by making it unprofitable. The future of the child is not thought of. That of course was the intent of the law originally, since a fine for the act of fornication in addition to the support order is stipulated in the law.

When women sex offenders come before the court the usual disposition is that of fining. A few of the courts use women probation officers for these cases. One man probation officer in a western county receives women on probation; his probationary task consists in seeing that they leave the county. One girl arrested as an inmate of a disorderly house was placed on probation to the constable who had arrested her. He "supervised" her "on probation" for three months. He then brought her in for violation of probation. She had not paid the costs that were imposed on her; part of these costs belong to the constable-probation officer as his fees. She was therefore jailed for violating her probation and paroled to the same constable after she had paid the costs of her two arrests.

How important the collection of fines is in the work of the probation officer is illustrated by data gathered in one typical county during the year 1923, and shown in the table above.

The probation officer had the duty of financial collection and supervision of money payments in eighty cases, or more than seventy per cent of the entire number of adults placed on probation.

However, there are still more rudimentary methods of probation. There is the specially designated probation officer. He is not a paid official of the court, but he may be a sheriff, a constable, a policeman, detective, or an interested private citizen. Such officers do not necessarily receive reports as to work and conduct, but usually

|   | Total | Men | Women |
|---|-------|-----|-------|
| For supervision of conduct only.....                            | 31    | 20  | 11    |
| For payment of fines, costs, restitution.....                   | 40    | 35  | 5     |
| For both supervision of conduct and money payment.....          | 23    | 18  | 5     |
| For supervision of conduct and payment of non-support orders... | 8     | 8   | ..    |
| For payment of non-support orders only..                        | 9     | 9   | ..    |
| Violation of parole (no disposition).....                       | 2     | 2   | ..    |
| Total.....  | 113   | 92  | 21    |

are content to keep a watchful eye on the probationer and to hale him before the bar of justice if he goes wrong again. At times the probationer is simply released to demean himself properly, the court exercising no direct control of any sort. Indirect control, however, is exercised because of the conditions of probation; a re-arrest for a crime will mean the serving of the old sentence that had been suspended and also the imposition of an additional sentence in punishment for the new crime.

In one of the coal counties at the time of the study a man was seen in the county jail who had been committed there by one of the local justices of the peace. This county had no probation officer for adults. A year before this man had been placed on probation to his brother by the judge of the county court. This brother was a chronic invalid confined to bed. The probationer was a periodic drunkard. After many appearances before the squire during his period of probation, he had been finally sent to jail by the squire. In jail the visitor of a private society discovered his condition and had just completed arrangements

for sending him to an institution for inebriates. The court knew nothing of the man's conduct while on probation and did not even know that he was shortly to be sent away.

#### REFORMS

Liquor offenders, non-supporting husbands and children are now the favorites of the probation and parole system. The entire probation and parole system is lacking in uniformity and organization. There are no uniform standards that are being maintained by any body of officials that has authority to do so. The State Department of Welfare's authority is limited to the receiving of reports and the giving of advice. This is only exercised in the juvenile courts. The judges seem to be ready to listen to suggestions and both judges and probation officers in many of the jurisdictions of the interior of the state seek advice and help. An extension of the advisory function of the State Department of Welfare, to include the work of the adult probation and parole officers and to give more complete service to the juvenile officers, would help the situation a great deal. The setting up of a juridic practice by legislative authority, so that domestic relations cases could be heard and handled separately without

the intervention of the justice of the peace, would help to establish family courts where non-support and support orders in the case of illegitimate children could be made with the help, investigations and supervision of special probation officers wherever necessary.

A real problem is to organize probation and parole service so that the burden of collection of money can be taken from the officers, leaving them to do their real work of the rehabilitation of men and women through the constructive service of probation and parole. If the probation officer were not burdened with the financial duties involved in the collecting of fines, costs and with the supervision of dependent children, which is now their duty under the present juvenile court law, the probation load for each individual officer would be lessened to the point where real service to the individual could be rendered by the officers. Legislation requiring probation and parole officers to be qualified and trained and providing better formulated probation and parole laws that will make probation and parole a work of rehabilitation is a *sine qua non*. Without that the courts cannot be socialized and the probation and parole system cannot be bettered.

## Wage Systems in Prisons

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THE New York prison reformer, Mr. T. M. Osborne, and a Texas attorney-general each said: "The prisoner is a slave." They were speaking with reference to the compensation of prisoners when they made that statement. Mr. Osborne was favorable to the movement; the Attorney-General

made his assertion when he was giving his opinion that the law of his state for the compensation of prisoners was unconstitutional. More recently the Supreme Court of the State of Rhode Island decreed that the prisoner is not a slave.

The question of the compensation of

prisoners has to do with the output of more than 2500 penal and correctional institutions in this country. These institutions have dealings annually with a population of nearly 500,000 adults. And several millions of dollars' worth of property are involved in the business and financial conduct of prisons and penitentiaries. But from the moral and social point of view, the question of paying prisoners is vitally bound up with the attitudes of the inmate population of these institutions and the attitudes of the prisoners' dependents.

The term wage when used in connection with penal and correctional institutions has a somewhat specialized meaning. It is the reward the user of the inmate's labor or the recipient of the product of that labor gives to the prisoner. This reward varies from nothing to a stipulated sum. There are institutions whose inmates receive nothing for their labor. But nearly every state prison is now given the right and duty by law to give at least a dismissal gift of a suit of clothes, a railway ticket to the county from which the inmate came, or to a not greater distance, and often a few dollars in money. Such a gift can hardly be called a wage even in the sense indicated above. In some instances, however, the dismissal gift of some institutions is a fairly substantial amount. The state of Vermont, for example, gives the prisoner in its State Prison one dollar a month for each month spent in that institution, as a dismissal gift.

#### PRESENT STATUS OF WAGES

The best available source of information on the subject of compensation of prisoners for the country as a whole is found in Bulletin No. 372 of the U. S. Bureau of Labor Statistics. That was a study of convict labor made

near the close of the year 1923. Its object was to show the kind, quantity and market value of goods produced in penal institutions; also, the disposition of these goods—whether on the open market or within the state's own institutions. But in addition to these data, some interesting materials on the compensation of prisoners were also gathered. Of the 104 institutions reporting to the Bureau for this study, fifty-three paid their inmates nothing, while fifty-one reported some sort of compensation.

In thirty-one of these institutions the compensation amounted to not over ten cents per day. Seven institutions, including one Federal prison, paid a wage only to those engaged in manufacture. This amounted to between ten and twenty cents per day. Convicts in eleven institutions received twenty cents or over per day. In one institution convicts received the free labor wage rate after the completion of a task. In one institution a bonus was paid for over-task work. In most instances where contractors were concerned, over-task work was compensated at the same rate as that paid for the hire of inmates. The high rates paid in certain institutions were as follows: twenty to fifty cents, twenty-five to fifty cents, twenty-five to seventy cents, twenty-five to eighty cents, and twenty-five cents to \$1.50 per day.

#### CLASSIFICATION OF WAGE SYSTEMS

Systems of wage payment to prisoners may be classified as follows: bonus or reward for industry; pay for over-task work; per centum of his actual earnings allowed to the prisoner; inmates are charged with their keep and credited with their surplus earnings. As a rule, no single system is in use in an institution. One department will pay a bonus, another a flat rate,

and perhaps another department in the same institution will allow its inmate labor pay for over-task work only. So it not infrequently happens that no single system fits an entire institution.

Where the reward or bonus system is in vogue, the contractor for either the labor or the product of the labor of the inmate will give him a sum of money in addition to what he pays the state for the inmate's services. An illustration of this is found in the shoe shop of the Vermont State Prison where the inmate receives three and one-half cents per pair of shoes turned out.

Under the system of rewarding the prisoner for work done in excess of a set task, the piece-price contractor, the labor contractor or the institution itself pays a sort of a wage by allowing the inmate to work and earn something for himself after he has finished the stint. In some instances the amount earned in this way is a fairly substantial sum. Those who work in the shirt factory of the Rhode Island State Prison are said to earn from \$2.00 to \$25.00 per month by over-task work.

The system of wage payment to prisoners by which the institution allows the inmate who earns for it a definite per cent of his earnings is not so common as the systems mentioned above. An illustration of this system, however, is also found in the Vermont State Prison. The inmates of this prison who work on the roads receive one-third of the money paid to the state for their labor.

Another system is found in the institution that has an account with its inmates, charging them with their keep and crediting them with their earnings over and above their cost to the institution. This system was given a great impetus by President Wilson's order that inmates of prisons

might be employed in production for war purposes, providing that they be paid the going wage rate for labor of the kind they were furnishing. The order further provided that inmates so employed in war industries were to be charged for their board and other items of cost to the institution and that the difference be credited to the inmates as the wages they had earned.

The New Jersey State Prison arranged with the War Reclamation Service Board for the labor of about seventy of its inmates. They were to repair shoes for the Federal Government. They were to be charged with their cost to the institution and were to receive twenty, thirty and forty cents per hour for their work, the rate varying according to the degree of skill required. This was a long stride forward in the effort to apply a real wage system to a labor situation in a penal institution.

The state of Maryland let some of its convict labor to war industries also. For this labor the state received \$4.00 per day, but allowed its inmates who did the work only fifty cents per day as their wages. The governor of the state lamented the fact that so small a portion of their earnings was given them.

#### NEED FOR UNIFORM LABOR SYSTEM

The above classification of wage systems in penal institutions is fairly complete. But in many instances a penal institution has in use two or more systems at one time. This is due to the fact that most penal institutions are diversified in their industries as well as being, to a certain degree, self-sufficing industrial units. They produce as much of the goods and services needed for the maintenance of the institution as possible. This may be advantageous in some ways; but, when it comes to the estab-



lishing of a uniform method of wage payment for the labor and services of its inmates, it is a hindrance, evidently.

Regional conferences consisting of governors of states and other interested persons were held in 1924 to consider ways and means of unifying the methods of employing the labor of inmates of penal institutions within given geographical areas. The idea advocated is a sort of geographical division of labor between the penal institutions of a given group of states. The penal institution of one state would specialize in the production of some product—auto-license plates, perhaps. All the states within that district would purchase their license plates from that institution. The penal institutions of the states comprehended in this region would likewise specialize in some other article that could be purchased by the other states to the agreement and so on throughout the various state prisons of the district. The plan is a sort of an interstate-use method of disposing of the products of the convict labor of states that have a comparatively small population. Such a method of employing the labor of penal institutions would greatly simplify the problem of method for paying inmates a wage for their labor. But even as things now are in the non-differentiated functional way of employing convict labor, some institutions are achieving considerable success with the plans they are operating in paying inmates a wage for their labor. And our interest especially centers in these just now.

#### OPERATIVE WAGE PAYMENT PLANS

One state reports that two systems of wage payment to inmates of its penal and reformatory institutions are in use. One plan is operated for the workers in a contract factory who are

paid a wage in the form of a bonus for work done in excess of a set task. One-half of this bonus is paid by the state and the other half by the contractor. Under the other plan the workers in other factories of these institutions are paid by the month stipulated amounts, depending upon the nature of the work and the ability of the prisoner.

In a state reformatory in another state, inmates are not paid except those who work in a certain factory. These inmates are allowed one-half of the amount earned in excess of a set task.

A warden in another state prison reports that a shirt factory is operated in his institution by the Far West Manufacturing Company under the piece-price system. Inmates receive a small amount for their work when they make the task. They average about \$2.00 per month. This company works about 200 men in the factory and turns out about 220 dozen shirts per day. The institution gets from forty-two and one-half cents to fifty and one-half cents per dozen. The institution furnishes building, heat, light, etc.

These examples may be regarded as typical of the way the system of pay for over-task work is operated. Other instances of the application of the system might be given, but they add nothing important to those already given.

Minnesota State Prison, located at Stillwater, has for a number of years been one of the most successful institutions of the country in paying its inmates for their labor. This institution pays each inmate at least twenty-five cents per day. Twine and farm machinery are manufactured and a farm, a tailor shop, a laundry and a print shop are operated. All departments are under the piece-work plan.

Where this plan cannot be operated, the task plan is used. A task is set and inmates are paid for all work done in excess of that amount. In departments where neither of these plans can be operated, as in the engine room, janitor work, and farm work, a flat rate is paid, the rate depending on the position filled.

The Michigan State Prison at Jackson was ranked a few years ago by the student and critic of prisons, Mr. F. Tannenbaum, as one of the best of its kind in the United States. Part of the inmates of this prison are paid a wage on the piece-work basis. The majority of the work of this institution, however, is done on the day-work basis. The prisoners are paid from twenty-five cents to \$1.00 per day. Part of the inmates are now employed in building the new prison that is located three miles from the old one. The prisoners thus occupied are paid the same rate as those employed in the construction of highways; that is, \$1.00 per day and board and clothes.

#### NEW YORK WAGE SYSTEM

The most extensive wage payment plan for inmates of a prison put into operation anywhere in the world, probably, was begun recently in New York State. It aims to combine into a workable system all the good features of the most successful experiments of the past. The state of Michigan has an industrial manager for all of its prison industries. New Jersey has in operation a successful plan of analyzing its prison labor and fitting it into the proper industry. The State Prison of Minnesota manages its industries and labor in such a way as to be able to meet its expenses and also pay a substantial wage to the inmates for their labor. But this is the first time that these features have been combined in one system and connected up in an

effort to apply the principles of the scientific management of labor to the operating of industries in penal institutions.

The substance of the law creating the New York system is as follows:

Every prisoner confined in a state prison, subject to the rules and regulations of the Prison Industries Board, and every prisoner confined in a reformatory or penitentiary or in a county jail, in the discretion of the managing authority thereof, may receive compensation from the earnings of the institution in which he is confined. Such compensation is to be graded by the Prison Industries Board for prisoners confined in state prisons, and by the managing authorities in all other institutions for prisoners confined therein.

Rules are to be adopted by the Prison Industries Board, subject to the approval of the governor, for establishing in all the state prisons a system of compensation to the prisoners confined therein. Such rules are to provide for the payment of compensation to each prisoner meeting the requirements established by the Prison Industries Board. Compensation is based upon the net average earnings of the industries of the prison in which the prisoner is confined. These net average earnings must be in excess of the total average cost of all operations for the industries of such prison, as shown in the monthly reports of the industries prepared by the superintendent of prison industries and the Prison Industries Board. However, before any compensation out of the net earnings is allowed to prisoners, the state is first to receive thirty cents per day per paid inmate and the full maintenance charge in the case of convicts employed outside of the prison walls and, in addition, thirty per cent of the remainder of such net earnings after

deducting the same. The remaining seventy per cent is to be distributed among the inmates holding paid positions.

The Prison Industries Board is to prepare graded wage schedules for paid prisoners which are to be based upon classifications according to the value of the work performed by each. The rules of the Prison Industries Board provide for the establishment of a credit system for each prisoner and the manner in which the value of such earnings are to be paid to the prisoner or held in trust for him by the agent or warden until his release.

Compensation paid to prisoners under this section is to be based on the earnings of the industries of the prison wherein the convict is confined. The Prison Industries Board is authorized to create a cumulative reserve from the earnings of the industries allotted to the prisoners to stabilize wage payments throughout the year and it may in its discretion transfer to the prison necessary moneys from the reserve so accumulated to provide for such payments if, at any time, the earnings from the industries of the prison are insufficient to provide for the payment of the wage.

The superintendent of prison industries is appointed by the governor and is in charge of all prison industries and prison labor. He is in direct charge of all prison production shops, farm work, and development and improvement of manufacturing methods and upkeep of the machinery and equipment. He causes to be employed in such industries as he finds available all convicts certified to him by the agent or warden as physically able and capable of working and as not necessary for custodial or maintenance work. He is to confer with the Prison Industries Board and to make recommendations concerning wages and employment.

He is to carry out his duties under the supervision of the Prison Industries Board and according to such recommendations as that board makes.

Articles needed in the various institutions of the state of New York are to be made in the prisons and reformatories and must be purchased of these institutions, unless the Prison Industries Board in case of the state prisons, and the prison commission in the case of reformatories and penitentiaries certifies that the same cannot be furnished upon requisition.

The Prison Industries Board, with the approval of the superintendent of purchase, fixes and determines the prices at which all labor performed, and all articles manufactured in the penal institutions in the state, and furnished to the state, or the political divisions thereof, or to the public institutions thereof, are to be furnished. The governing body of each charitable institution controlled by the state creates a board which, with the approval of the superintendent of purchase, fixes such prices in respect to such charitable institutions. Such prices are to be uniform to all, except that the prices for goods or labor furnished by the penitentiaries to or for the county in which they are located, or the political divisions thereof, are to be fixed by the board of supervisors of counties. The prices are to be as near the usual market price of such labor and supplies as possible.

The Prison Industries Board consists of the superintendent of state prisons, the superintendent of prison industries, and the superintendent of purchase. The Prison Industries Board corresponds to the board of directors of an industry in civil life.

The law establishing the present method of operating the industries in the prisons of New York became effective

tive in July, 1924. Mr. R. T. Kent was appointed Superintendent of Prison Industries in August, 1924. He spent the first six months studying the industrial situation in the prisons. As a result of these studies a wage system was drawn up and made effective July 1, 1925.

The rules governing the payment of wages adopted by the Prison Industries Board, approved by the governor and put into effect July 1, 1925, are in substance as follows:

All workers in the prison industries are divided into skilled workers, limited-skill workers, common labor, apprentice and service men. All industrial clerks and stenographers, power-house men, men engaged in construction and repair work for the industries, chauffeurs on industrial trucks and certain classes of maintenance men, as selected by the Prison Industries Board, are classed as service men. Service men may be divided into grades of skilled men, limited-skill men and laborers. The Prison Industries Board has the power to decide the number and classes of service men that are to be considered as full or part-time industrial workers.

The Prison Industries Board, upon the recommendation of the Superintendent of Prison Industries, adopts basic maximum or minimum daily or hourly wage scales for each grade of worker in each industry. Wage scales for each grade of worker may vary as between the various operations in an industry, consideration being given to the degree of skill, length of training required, risk and value of the operation, in fixing the wage scale. Workers individually have the right of appeal, in writing, to the Superintendent of Prison Industries, on questions of wage fixing.

The Superintendent of Prison Industries causes to be prepared piece-rate schedules for all productive work

where the output of the worker can be measured. Such schedules are what is known as the differential piece-rate plan, wherein the piece rate is increased when the output of the worker, within a given time, reaches a predetermined minimum. When the predetermined minimum output is attained the worker is to be paid the increased piece rate for his entire output during such period as his output exceeds the predetermined minimum rate of production. Such rates, when approved by the Prison Industries Board, shall become effective and may be paid to workers in lieu of the wage provided for above, when in the judgment of the Superintendent of Prison Industries it becomes desirable to do so.

The Prison Industries Board is empowered to change any or all basic daily or hourly wage schedules or any or all piece-rate schedules whenever in its judgment such changes are desirable or necessary.

In the formulation of wage scales, provision is made for the computation separately of such portion of the earnings of the workers as may be necessary to provide for the payment to the state for their maintenance of the sum of thirty cents per day, and of the portion that is earned for their credit to their individual accounts.

The Superintendent of Prison Industries is to devise a system of accounting for the time or the output of all workers entitled to receive wages from the prison industries. The time of each worker during the hours in which he is employed productively is kept and used in the computation of the earnings of each worker. The worker is not to be paid for any time except that during which he is employed on productive work. Time lost from work, except for injury in the course of duty, is deducted before the earnings of the worker are computed. In



case of men paid according to piece rates, the total time elapsed from the beginning to the end of any assigned job of work is to be used in determining whether the rate of output has been such as to entitle the worker to the increased piece rate as defined above. When a worker is unable to work, due to cause beyond his control, the Deputy Superintendent of Industries, in the prison in which he is confined, may allow the worker payment at a fixed hourly rate during such periods as he may be unable to work.

In no case are the net wages of any worker to be less than one and one-half cents per day, irrespective of his gross earnings.

A shop foreman can discharge a man from his shop on account of lack of work, incompetence, excessive spoilage or poor quality of product, willfully damaging his machine, tools, product, raw material or shop equipment, insolence, or violation of shop rules. The discharged worker has the right of appeal to the Deputy Superintendent of Prison Industries, and may request, in writing, a review by the Superintendent of Prison Industries.

A system of accounts is to be opened up under the direction of the Superintendent of Prison Industries. The gross earnings of each man, the portion of such earnings that is to go to the state at the rate of thirty cents per day, and the net earnings credited to each man are to be shown. The accounting system is to show the net earnings of each department monthly, after deducting all expenses for raw material, supplies, administration, power and other charges commonly known as overhead, but before deducting the earnings of the workers. Net earnings of each department are credited to a distribution account, which is charged with payments to a "Maintenance Department" account,

at the rate of thirty cents per day per paid worker. The distribution account is charged with thirty per cent of the balance of the earnings after deducting aforesaid thirty cents per day per worker, which shall be credited to a "Net Earnings" account. The distribution account is also charged with seventy per cent of the earnings, after deducting the thirty cents per day per worker, which sum is charged to a "Pay Roll Reserve" account. The "Pay Roll Account" is charged with the payment made to the accounts of the individual workers as shown to be due by the time-keeping records.

#### RESULTS OF NON-WAGE SYSTEM

To rightly assess the value of any plan in its relation to a situation is impossible except for those connected with that situation. So only those who have had experience with institutions without a wage system for their inmates have a right to be heard.

A warden of one of our state prisons writes:

Inmates of this institution do not receive any compensation for their work. At this time we have no factory and a great many of the men are idle. We work about one-third of our population on farms, in the office, store, garage and kitchens.

In October, 1925, a strike occurred in one of our state prisons that cost the state, according to estimates, \$15,000. The labor of inmates in this institution was hired to the convict "Labor Trust" for seventy cents per day.

Mrs. Kate Richards O'Hare was a Federal prisoner in the Missouri State Prison. She affirms that she earned \$6.00 per day at non-union wages. She was paid from one and one-half to three cents per day, or \$10.50 for fourteen months' work. She earned \$1800.

Mrs. O'Hare says:

The difference between the wages I earned and the pittance I received went not to the state to relieve the burden of taxation, but into the pockets of the prison labor contractor. Fortunately my four children had a father who could care for them, and they did not suffer want. But had they been the children of the average convict they would have been thrown into the street. Perhaps my boy might have been driven to crime and my girl to prostitution, while the prison labor contractor and a choice assortment of politicians collected the profits from my labor.

Mr. H. W. Kellogg, a chaplain in one of our reformatories, wrote a couple of years ago:

We really do not give wages, except a mere pittance. What we really do is to teach the most slovenly habits of work imaginable. The boy soon gets the notion, if he does not already possess it when he enters, that he is to pass his time as easily as possible. There is no incentive to do an honest day's work for an honest wage. We actually corrupt him in his working methods. We unfit him, instead of fitting him. . . .

#### RESULTS OF WAGE SYSTEM

Systems of paying prisoners a wage are in successful operation in several institutions. Among these are the Indiana State Prison, the Ohio State Penitentiary, and the New Castle County Workhouse, Delaware. The wardens of these three institutions agree that the way they compensate their inmates for their labor stimulates them to do good work and to cooperate with the authorities of the institution in maintaining discipline and order.

Mr. H. L. Hulburt, who was for seven years warden of the Michigan State Prison at Jackson and at the same time industrial manager of the industries in that and in the other two prisons of the state, says that buying or coaxing discipline does not work

well. He maintains, however, that results from both a productive and disciplinary point of view can be obtained by the exercise of care in selecting the man for the job and by making the rate of the wage paid dependent upon the recommendation of the man under whose direction the inmate works. Mr. Hulburt further says that if a prison allows itself to get into a rut, whereby the wage scale makes the man, it will be worse off than if it were on the old task system.

He also says that there is nothing better in the world than to see a man send home to his wife and children the earnings of his labor in the prison or to care for an aged father and mother out of such earnings.

The New York system of paying prisoners has been in operation but a short time. The results, however, have been, in the main, satisfactory. The plan was put into operation in the Clinton and Auburn prisons with a base wage of five cents per day. This was a small wage seemingly, but it represented an increase of more than 300 per cent on the wages previously paid.

During the first month of the operation of the plan at the Clinton Prison, production increased nearly forty per cent. At the Auburn Prison the net earnings have increased to a point where it will soon be necessary to revise the scale upwards. At Sing Sing Prison wages have not been paid, due to the fact that the net earnings of the industries have not been sufficient to comply with requirements of the prison law. This is not due to inefficient operation of the industries, but to the fact that a large amount of reconstruction and rebuilding has been going on. Under the present system of accounting this must be charged against the account of operating the industries.

Mr. Kent says that more important than the improved production is the effect on the men themselves. They have been given a new outlook on life, and already one of the needed lessons is becoming rapidly learned. A man was discharged for insubordination from one of the shops, and placed on a job which carried no wage scale. For two months he has been trying every expedient to get himself reinstated in the shop from which he was discharged. Insubordination has disappeared. Men who deliberately soldiered on the job, and who made it

a point to perform no more work than was necessary to prevent them from getting into difficulty with the authorities, are now using every effort to increase their production. Men for whom there is no work available are maneuvering to get themselves assigned to the industries, whereas formerly they avoided such assignments wherever possible.

Institutions and systems that do not make men are doomed; those that make men into self-respecting, law-abiding, industrious persons have an assured future.

## A Plan for the Interstate Sale of Prison Products

By E. STAGG WHITIN

Executive Director, National Committee on Prisons and Prison Labor; President, Associates for Government Service, Inc.

UNDER the title "Self-Supporting Prisons" the movement to apply business methods to the manufacture and sale of prison products was discussed in *The Annals*, May, 1924. At that time the results were outlined which would follow these developments, including a wage for prisoners which is the logical outcome.

The last two years have given definite form to the movement sketched at that time. This statement will not attempt to duplicate, but to depict vividly what is going on and to suggest the problems which lie unsolved.

As the outcome of the addresses made at the Governors' Conference at West Baden, the Intermountain Conference on the Allocation of Prison Industries was held in Salt Lake City, April, 1924. Official delegates of the Intermountain States met with representatives of manufacturers' associations, women's clubs and labor organizations and outlined a program.

This was based upon the philosophy laid down by the representative of the American Federation of Labor, who demanded that the program be one of evolution—not revolution—the steady growth from a small beginning to a concrete, definite and workable interlocking of states in a progressive and co-operative program. As a result the following resolution was unanimously adopted:

*Be It Resolved*, by the Intermountain Prison Industrial Allocation Conference, participated in by official representatives of the States of Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Washington, Wyoming and the United States Department of Justice:

I. That all able bodied, physically fit, mentally competent male and female prisoners should be employed and not maintained in idleness.

II. That as soon as practicable, all work-competent prisoners be employed under the 'States' Use' system, including public works, as the fairest method of

employment alike to the taxpayers, to capital, to free labor, and to the prisoners themselves; it being recognized that the basic considerations that govern the selection of 'States' Use' industries are:

(a) The selection of those industries whose products will find a ready, stable and adequate market among state and local governmental agencies, within or without the State, and for which adequate raw materials are obtainable at reasonable prices.

(b) The selection of industries in which the class of prisoners in the institution can be most effectively and constructively employed.

III. That all prisoners should receive such compensation as their conduct and efficiency warrant, to be paid out of the earnings of the prison industries after all costs of prison maintenance have been deducted.

IV. That the services of the Associates for Government Service Incorporated be utilized whenever needed as a medium for the exchange of surplus products between the states.

V. That it is the sense of the Intermountain Prison Industrial Allocation Conference, that the several states with the United States Government, together, constitute the 'States' Use' system.

Four similar conferences have since been held. The Atlanta Conference included the states of Alabama, Georgia, Mississippi, North Carolina and South Carolina; the Trenton Conference, the states of Pennsylvania, Maryland and New Jersey; the Salem Conference, the states of Washington and Oregon; and the Boston Conference, the states of Connecticut, Massachusetts, Rhode Island and Vermont. The Atlanta, Trenton and Salem Conferences adopted resolutions similar to that of Salt Lake City, while the New England Conference began the organization of a permanent committee to carry on the work.

Governor Fields of Kentucky has called a conference which will be held

in April, 1926, covering the states of Arkansas, Kentucky, Indiana, Missouri, North Carolina, Tennessee, Virginia and West Virginia; and there is planned a general conference for the middle western states.

After the completion of these conferences a general agreement will exist among the states that when practical they will buy the goods produced in their own state institutions and, if possible, secure what surplus they need from the penal institutions of some adjacent state. The only binding phase of this agreement is the usual economic advantage which will result from the actual carrying out of the program. Where no economic advantage is to be gained, no state will be expected either to buy or sell. The buyer must be able to secure goods of the type needed at prices which are right. The producing state must manufacture the goods according to specifications and must realize that in selling to its own institutions or to those of nearby states, it is meeting best its own economic situation in that the economic forces of the country, having opened this channel by mutual agreement, will encourage the sale of commodities in this market; while in every other market they will do their utmost to discourage and destroy the value of the goods. The proof of this lies in the action of trade and labor organizations in demanding the regulation of the sale of prison products by branding and licensing laws and in their appeal to the Congress of the United States for help in this connection. It is also strongly emphasized by the encouragement and help being given by manufacturers and organized labor in perfecting the prison products and in developing the market when a guarantee is given that the goods will not compete unfairly with those of industries outside the prison.



Two interesting illustrations of the co-operation of the manufacturing and labor groups have been made this year.

#### STATE ACTIVITIES

The first lies in the Intermountain Zone, where the work of exchanging surplus prison commodities was started in 1924 by funds contributed by the National Committee on Prisons and Prison Labor, assisted by Mr. Adolph Lewisohn and the Bureau of Social Hygiene. It was demonstrated that a practical exchange of prison goods could be carried out, but that the cost in this zone would be much higher than in any other territory and that the commissions paid by the several states would have to be commensurate and would, in some cases, require action by the legislatures. The Associates for Government Service, which is incorporated to make the exchange of prison goods among the states and to help develop the purchasing methods of the states, is limited in its development because of the determination to secure financing only from sources having no desire for profit or pecuniary gain. The work in the Intermountain Zone was, therefore, temporarily suspended by the Associates and the Utah Manufacturers' Association undertook to develop an agency itself which would co-operate with the Associates for Government Service but would be financed locally. The merchants were willing to contribute and the ground was carefully surveyed by the Secretary of the Utah Manufacturers' Association. It was ascertained that the actual cost of the service to the state governments would be so high that it could not be justified, as only a few lines of commodities would be produced and these at high cost, due to the inefficient methods of prison manufacturing. The proposal was then made that certain business concerns take on this work as

a side line and a ready response was received from business men in Salt Lake City who desired to conduct the work in this way because of the monetary advantages there would be to themselves. It was decided, however, that this in itself was unwise as it put an unselfish movement in the hands of purely business interests working for their own profits.

The experiment and investigation demonstrated the soundness of thought underlying the organization of the Associates for Government Service, Inc., working both for the purchasing agents and the prison departments. The Associates handles a number of lines of commodities produced by prison and general factories. It can, therefore, afford to accept whatever commission the state governments feel they can afford to pay for the service because of the efficiency secured from handling a large volume of business, a good proportion of which is free from the selling difficulties arising out of an opposition to "prison-made goods" on the part of the buying states and institutions. On the other hand, this organization, while on a practical business basis, is established for a philanthropic purpose and free from the factors of business exploitation and manipulation.

The business interests, therefore, have left to the Associates the gradual inclusion of the Intermountain Zone in their operations which are beginning in the more populous and consequently less costly fields of operation.

The second illustration is found in the state of Pennsylvania where, at the suggestion of the Philadelphia Chamber of Commerce, with the support of more than fifty organizations representing the business and labor interests of the state, a bill was passed by the Pennsylvania Legislature providing that the prisons, which were operating under a

system of part idleness, part contract and part state use, for the sale of the commodities to the institutions of the state, should have the opportunity of selling the surplus commodities to adjacent states.

Upon the passage of this bill, Governor Pinchot made an agreement with the Associates for Government Service, Inc., to handle the sale of the surplus prison commodities of the state of Pennsylvania to adjacent states, a small commission being arranged for to carry on the cost of this operation. The Governor accepted the one condition laid down by the Associates, which was that he would organize committees made up of a labor man and a representative manufacturer in each line of commodity manufactured in the prisons to assist in the sale of these prison commodities. As a result the Governor called on the local representative of the American Federation of Labor, Mr. Ritchie, for the nomination of labor representatives and on the Philadelphia Chamber of Commerce for nomination of manufacturers.

March 3, 1926, saw the organization of labor and manufacturers' advisory committees for each of the prison industries of the state of Pennsylvania. After a statement of the needs of the state of Pennsylvania for the work of these committees by Dr. Ellen C. Potter, Secretary of Welfare, a brief statement was presented by the Associates for Government Service, Inc., outlining the work and functions of these committees from the standpoint of the sale of prison products. The statement so clearly points to the solution of the many difficulties which have confronted state governments in the sale of their prison products that this article would not be complete without a liberal quotation from it:

We have asked that the Governor appoint Advisory Committees representing

manufacturers and labor who will undertake to give advice and assistance in the development of the prison workshops, each committee to be composed of competent and practical men in a given industry. We have pointed out that the national trade associations in these industrial lines all have prison labor committees who will assist the men of their trade on these commodities in advising with them where the problems involve more than local consideration, and that in the grading commodities, the setting up of simple specifications and securing the most approved method, the co-operation between these national trade committees and the local trade committees can be successfully worked out.

The Governor's appointment carries with it definite power. The responsibility for the conduct of the industries rests in the Department of Welfare. The Associates for Government Service has undertaken the sale to the state institutions outside of the State of Pennsylvania of the commodities manufactured in the prisons of the State of Pennsylvania, which are found to be in excess of the commodities which the sales department of the Welfare Department with due diligence can sell to the state, city and county institutions within the State of Pennsylvania. The Associates has asked, as a prerequisite of its service to the State of Pennsylvania, that your committees be empowered to certify definitely in regard to the goods offered to the Associates for sale, that certain conditions in regard to their manufacture be lived up to, and it definitely asks that these conditions be worked out by you and with you and that the State be compelled, if it desires to use the Associates, to live up to these conditions.

We ask your consideration and ruling on the following questions:

1. In declaring that certain prison commodities are in surplus and are, therefore, open to sale beyond the state, what basis shall be used so as to be reasonable and at the same time consistent?

2. What method shall be pursued in setting up samples and specifications for commodities so as to conform with the best trade practice?

3. What method of inspection can be had at the source of production so as to make

possible a certification as to the grade of goods?

4. What method can be devised for the fixing of the price so as to guarantee a just return to the state and the prisoner and still make possible the marketing of the goods on an equal bidding basis with the general market commodities?

5. Will you restrict the lines of manufacture so that the Associates can be assured that they conform to the best interests and development of the prisoners, providing opportunity for them upon release, while, at the same time, providing sufficient labor to prevent idleness or the continuation and return to the contract system?

We believe these questions should be considered first in the light of prison industries conducted in the State of Pennsylvania.

We believe the answer can and must be worked out by the special committee in each line, in conference with other committees and with members of the national prison labor committees of the trade associations and unions. We believe that the task is not a difficult one for the trade experts working in the field in which they have daily experience. We believe it is an impossible task for the state official or casual student. We have faith that the decisions will be practicable and encouraging to the industries, and will, after the initial development of the work, consume a very limited amount of time on the part of the members of the committee. We believe that it can be made so practical that the members of these trade committees will be glad to attend the meetings of the national trade associations and explain what has been accomplished.

We are fully aware that what you set up as a basis for the surplus commodity will hold equally for all commodities manufactured in the prison industries of the State of Pennsylvania. You will, therefore, have to consider them as a whole. We believe that the Welfare Department will welcome the suggestions you make.

The Associates for Government Service will be glad to lay before you for your consideration an estimate of the market for the specific commodities now available in the institutions of other states than the State of

Pennsylvania, and also to point out the present and the probable future development of the 'States' Use' method as it applies to the specific industry throughout the United States. These data, which it has already supplied to the prison labor committees of the national trade associations and the United States Chamber of Commerce, it urges that you study and consider in conference with the committees of the national trade associations, and attempt to lay down for the Associates a policy both satisfactory to the State of Pennsylvania and the best interests of the trade which you represent.

#### FEDERAL CO-OPERATION

The committees are already at work with very satisfactory results. The Department of Justice is planning a similar procedure in connection with the Federal prison industries and is introducing a bill into Congress approving the appointment of a general advisory board on prison industries and similar committees to those that have been appointed in Pennsylvania.

The need for such a development on the part both of the State and Federal governments has been made clear by the comprehensive report made by a Committee on Prison Labor advising the U. S. Department of Commerce, which will be published within a short time. To those who are interested in a more detailed presentation of the problem this report will be valuable; while to those who desire to study the question of competition between prison-made goods and the products of free industries, the report of the U. S. Department of Labor entitled "Convict Labor 1923" will give all the substantial facts. The growth of the prison industries from this point is sure to be of vital interest to those interested in the general industrial problems as well as in prison problems and can well be included in some later issue of *The Annals*.

## Book Department

ELLWOOD, CHARLES A. *The Psychology of Human Society*. Pp. ix, 495. Price, \$3.00. New York: D. Appleton & Company, 1925.

In the terminology and concepts of the most up-to-date psychology Professor Ellwood has explained how we behave in human groups. It is by all odds the best book he has written. It is not a revision of his earlier texts in this field, but a new statement of the subject. Positing the "concrete group" and not "abstract society" as the primary datum of modern sociology, he has presented his analysis in a much more objective and scientific manner. Without minimizing the importance of the biological and organic foundations of individual and social behavior, he has described group behavior as essentially psycho-social. While giving due recognition to the evolutionary processes in both the organic and the superorganic spheres, he has made perfectly clear the types of modifications observable in the working out of these processes in the acquired products of cultural achievement.

As he points out, the book does not attempt to solve psychological problems, but sociological problems. It is therefore a contribution to sociological theory and should prove valuable in clarifying thinking in this sphere. While organized primarily in textbook form, it is non-technical and will appeal to the general reader.

J. P. LICHTENBERGER.

MARTIN, EVERETT DEAN. *Psychology: What It Has to Teach You About Yourself and Your World*. Pp. 302. New York: Peoples Institute Publishing Company.

This volume consists of a series of popular lectures on psychology. Mr. Martin steers between Scylla of obscurity and Charybdis of superficiality and falsehood with a skill that is rare in these days of sugar-coated science.

Following an exposition of various viewpoints the author advocates a behaviorism modified by including motives, conscious

reactions to future situations and certain Freudian concepts. Watsonian behaviorism is admired as a method rather than as a theory of mind, but is not considered completely adequate. Throughout the book the influence of William James is to be felt showing itself particularly in stress on dynamic and choosing aspects of mind and rejection of mechanistic determinism. Instinct and emotion are treated with a knowledge of the modern critical literature. From a discussion of thinking à la Dewey we are led through the mechanisms of compensation, rationalization, etc., down to the Unconscious. The acceptance of Freudianism is, however, not naïve unless it be in the explanation of religion in terms of infantile fixations.

Turning to social and applied psychology, intelligence tests are cautiously treated but the fiction of a group mind is vigorously demolished. In his discussion of propaganda, public opinion, politics, race differences and ethics, the author indicts the democratic dogma, crowd-mindedness, and the general cheapness and mediocrity of our civilization. His plea is for intellectual individualism, recognition of the superior individual, tolerance and urbanity.

The book combines a sparkling style with sound knowledge and is worth while for both psychologist and layman.

CLIFFORD KIRKPATRICK.

WHITE, WILLIAM ALLEN. *Calvin Coolidge*. Pp. 252. New York: The Macmillan Company, 1925.

This book is a study of a personality. It is an attempt to penetrate the enigma of our President; to understand the flesh and blood man in the White House. What are the outstanding traits in his make-up that have made it possible for Coolidge to go into twenty elections and win nineteen of them?

First of all he is taciturn. He was born in Vermont and he lived the early years of his life there, and in Vermont taciturnity is accounted a virtue. He is economical by nature and by training. Economy is bred



in the bone in Vermont. His own frugality has permitted him to live within his income and remain independent and free in politics. He is cautious; no Coolidge has ever gone west; he stays close to the tried and the known. He takes no short cuts, sees few visions and he keeps his eye on the next step. That step is never a long one, but it is a sure one and in a forward direction. His idealism is real, though of a scrawny, stunted timber-line-growth variety. He resigned a position as court clerk with a good salary in order to enter the state legislature where he could serve the people. Mr. and Mrs. Coolidge lived in one side of a house which they rented for \$27 a month for fifteen years. To have paused one hour to make a dollar for its own sake would have interrupted the unselfish service that he was rendering. He is trustworthy but not brilliant. He has none of the magnetic and startling qualities of genius, such as Lincoln possessed. His genius is for industry. He never missed a class meeting in college or a committee meeting in the state legislature. His greatest ambition has always been to do the day's work, and to do it with care and thoroughness. Honesty is inevitable with him; he can no more be dishonest than he can be garrulous or extravagant. Thus the author may well call him a paragon of the cautious, respectable virtues.

Coolidge is an adept politician "with more years of practical participation in real politics to his credit than any President who has entered the White House for fifty years." He is a skilled administrator, but lacks the ability to lead Congress. He has a mystical faith in the sanctity of property. "The business of America," he said, "is business." Other Presidents thought it was freedom, justice or peace. And it is Coolidge that best fits into the national psychology of these post-war days. Now America does not want a leader with daring and a vision that will take him to a far goal. It is mainly interested in security and economy and it has "turned logically—may we say mythologically?—to Cautious Cal."

Mr. White's Calvin Coolidge is most interesting reading. He deals in kindly fashion with the President and yet with such nice discrimination that the book will delight many readers in both camps.

*Recollections of Thomas R. Marshall, Vice-President and Hoosier Philosopher.* Pp. 397. Indianapolis: Bobbs Merrill Company, 1925.

Mr. Marshall never kept a diary—save for two days when he was ten years old and mainly interested in buckwheat cakes and sausage. This book, lightly philosophical, is the charmingly told story of his life, the interesting people that he came in contact with, the situations that he has been a part of, the humorous anecdotes that he has heard; it is all presented in such a way that it leaves, as he desired, a "sweet taste" in one's mouth.

Griffin, Solomon Bulkley. *W. Murray Crane, A Man and a Brother.* Pp. xvi, 202. Price, \$2.50. Boston: Little Brown and Company.

This is a record of the outer life of Murray Crane. It is written by a very dear friend and one who until 1919 was editor of *The Springfield Republican*.

Mr. Crane was born at Dalton in Berkshire County, "the region of the most appealing beauty within Massachusetts." The charm of this country forever delighted him. He early became actively interested in his father's business, the manufacture of fine paper, and quickly displayed marked selling ability. He was Lieutenant-Governor of Massachusetts for three terms and then Governor for a like period. His administration was an outstanding one and rigid economy was its dominant note. Governor Bates felt such confidence in his unselfish service and his sound business judgment that in 1904 he appointed him to the United States Senate to fill the vacancy caused by the death of George F. Hoar. Mr. Crane remained in the Senate until 1913 when he voluntarily returned to private life and business. He died in 1920.

The sub-title of this volume well indicates the approach of the author. It reveals Murray Crane as a reticent, tender-hearted man who was singularly interested in helping people out of all manner of extremities. Chauncey M. Depew considered him the most influential member of the Senate, and Colonel E. M. House said that Mr. Crane had the best mind in the Repub-

lican party. The book, however, does not disclose Senator Crane's ideas on the vital public questions with which he had to deal while he represented Massachusetts in the United States Senate. Neither does it explain to the student of politics how Mr. Crane was able to remain the Massachusetts member of the Republican National Committee for twenty-four years—unless this is explained by the descriptive statement, "Good sense was his gospel and tact his weapon."

This is the sort of biography that one would expect a devoted and able friend to write. It might be added that this book throws light on the credos of Calvin Coolidge, for he was associated with Murray Crane during the years of his apprenticeship.

WEINER, M. R. *Brigham Young*. New York: Harcourt, Brace & Company.

Brigham Young may be variously considered: As a founder of a religious sect; as a successful pioneer; as a statesman. William H. Seward regarded him as one of the greatest of American statesmen. Present day facts bear witness to his effectiveness as a religious leader and as the founder of a state. With remarkable clarity Mr. Werner brings out all these characteristics and has given us what is more, an interesting contribution to American history. It is an important one and as such to be commended. We have here a substantial painting of a big man. One who possessed vision and the courage to follow that vision and make it fact. This book, however, is something more than a striking picture of a pioneer and a statesman, it affords the background out of which he sprang and which surrounded him during his life. For, as Mr. Werner says, "It is impossible to write the life of Brigham Young without also writing the history of Mormonism; and it is impossible to write the history of Mormonism without writing the life of Joseph Smith, its author and proprietor." This is accomplished with a rather remarkable degree of effectiveness, so that we have a contribution of value for the student and an interesting volume for the general reader.

CLINTON ROGERS WOODRUFF.

VAN LOON, HENDRICK. *Tolerance*. Pp. 399. Price, \$3.00. New York: Boni and Liveright, 1925.

This is a history of the struggle of mankind to win the right to think and speak freely. How little progress has been made from the Greeks to our own time, what it cost those great souls who dared leap over the walls of ignorance and stand against the currents of prejudice, bigotry and hate of their own time, graphic accounts of leaders in the movement for free-thought, drawn against the dark background of the Church, the Inquisition, and other agents of fear and hate—such is the material that forms the fiber from which the narrative is woven. And it is a splendid achievement. Necessarily fragmentary and little that is new; but what of that? It is told in the inimitable Van Loon way and strikes home with ideas so forcefully that it gives freedom and tolerance a new meaning. The reviewer, at least, had never before so seriously questioned whether any progress in tolerance has been made in two thousand years; nor had he, before reading this volume, so fully appreciated that the conquest over fear and intolerance is not between the benighted masses and the intellectuals, as is commonly supposed by the college professor, but always between the intellectuals themselves or the favored and privileged few who lead the masses. The book is well worth reading.

KARL F. GEISER.

BOYD, WILLIAM KENNETH. *The Story of Durham: City of the New South*. Pp. 345. Price, \$3.00. Durham, N. C.: Duke University Press.

North Carolina is leading the South today in its progress towards a share in the industrial prosperity and intellectual development of the country. Durham is perhaps the most potential factor in connection with the former and two universities—Duke and the State University—are leaders in the latter.

Prof. William Kenneth Boyd, who holds the Chair of History at Duke, has told the story of Durham in a significant volume, which is not only admirable as an account of the growth of what was little more than a trading center, located near the scene of the

closing chapter of the Civil War, to be the center of the tobacco industry, but it is valuable and important as an example of what a community history should be. Its perspective is admirable and the style good. The story, one might call it a romance, is told quietly, effectively, with the right tone in dealing with the personalities, which of necessity play so large a part in such a development.

By no means the least interesting part of this volume is the account of the use made of their money by the industrial leaders who made the town. Professor Boyd does due justice to the significance and value of J. B. Duke's benefaction of \$40,000,000 and to Duke University (formerly Trinity College) which is the chief beneficiary of that fund.

Altogether we have a book of more than ordinary interest and value.

CLINTON ROGERS WOODRUFF.

FLINT, LEON NELSON. *The Conscience of the Newspaper*. Pp. vii, 461. Price, \$3.00. New York: D. Appleton and Company, 1925.

What to print, what not to print, and why, specifically, concretely, as the problem faces the American newspaper editor every day, is analyzed by Leon Nelson Flint, head of the Department of Journalism at the University of Kansas in *The Conscience of the Newspaper*.

The problem is old; the approach, in the field of journalism, is new. Casting aside abstract statements of ethical practice, Professor Flint invites his reader to sit in the editor's chair and to consider how every problem of right or wrong which may arise shall be settled. The author is friendly guide and philosopher, ever ready with explanations, statements of precedent and suggestions to be considered if the moral standards of the readers and the newspaper and its staff are to be guarded.

Because of its approach, Flint's book is much more effective than the average book on the ethics of journalism. Those who glibly damn and praise the American press will discover by reading *The Conscience of the Newspaper* that editing a daily paper ethically is no such simple matter as the application of a few abstractions to the news, the editorials and the advertisements.

A more amazing handbook of newspaper problems cannot be found. Through long association with the press, both as a practitioner of journalism and a teacher of it, Professor Flint has gathered such a collection of documents as to furnish a complete course in the principles of editing.

For its wealth of information and for the practical way in which it is presented, *The Conscience of the Newspaper* is a welcome addition to both the field of journalism and that of ethics.

DOMVILLE-FIFE, C. W. *Among Wild Tribes of the Amazons*. (2nd edition.) 27 plates, 6 maps, pp. 276. Price, \$5.00. Philadelphia: J. B. Lippincott Company, 1925.

It is with some regret that the reviewer is obliged to dissent from the mass of flattering testimony, in the form of advertising matter, with which this much exaggerated book has been heralded in the press. There is absolutely nothing of value to the serious reader in its 276 pages. In fact it is nothing more than a *Wide World Magazine* article enlarged to the proportions of a book, with the declared purpose of being an ethnographical study of the Indians of the Amazon Basin.

In works of this type there is nothing to command if their contents is neither informative nor put together in a literary form deserving of recognition as such. *Wild Tribes of the Amazon* fulfills neither requirement. If the author had informed himself of the work completed by others, he would have been spared the pains of undergoing hardships he reports and he would spare the public the unnecessary excitement of anticipating a book under an attractive title which does not fulfill its expectations.

Notes are offered dealing with the Ocainas, Apiacas, Carijonas, Conibos, Huambisas, Parintintins and Shipibos in particular. The report of finding a new tribe, the Itogapuk, is misleading. The Tupi-speaking peoples of the Madeirinha Valley are to be sure not well known, but information has already been gathered by others illustrating the life and beliefs of these people in general. There is good reason to infer that Domville-Fife has exploited the officers of

the Brazilian Indian Protection Service, in putting together what he tells us of a number of the groups he describes. His accounts of flesh-eating bands in the Putumayo, of head-hunting tribes in the Andean foothills, as though he had just discovered them, show his naïveté, since the same had long been known and intimately studied by Farabee, Rivet and Karsten, whose volumes are accessible to every ethnologist.

In short, the work is only worth a review to serve as a warning to the economical book buyer lest he squander the necessary five dollars for a book which professes to serve the purpose that he does not accomplish. The author may, however, be commended for his graphic descriptions of nature.

FRANK G. SPECK.

FARABEE, WILLIAM CURTIS. *The Central Caribs*. Anthropological Publications of the University Museum, University of Pennsylvania, Vol. X, pp. 229, Ills. 8, 1 map. Philadelphia: 1924.

The volume deals chiefly with the Macusi, an important Carib tribe centering about the Kanuku Mountains between northern Brazil and British Guiana. Material culture is the most widely treated topic. Their houses, made partly of adobe on the sides, with thatched roofs, their fields of Cassava and maize, their cotton-woven hammocks, loin cloths and cords, their cane basketry, pottery, gourds and calabashes are all typical of the Orinoco culture area. Dr. Farabee has recorded an addition to our knowledge of primitive corn-raising. He describes the reason why the Central Caribs leave the trunks of felled trees in the corn fields—to provide protection and moisture for the sprouting of the corn-shoots in the dry season. Though agriculture is a fundamental industry here, the hoe is not in existence among them. A sharpened stick is used to open the ground for the seeds. Both the poisonous sour cassava (*Manihot utillissima*) and the sweet variety (*M. palmata aipi*) are food staples. Game is taken, but the Macusi do not hunt extensively. Bows and arrows are their implements. An important feature of the chase is the hunting horn. As is customary

among practically all Carib and Arawak groups, and even among the tribes of the southeastern United States, the employment of vegetable poison is marked in the fishing customs. Fish arrows, traps, nets and hooks are likewise used. A most vivid account of a fish-poisoning expedition with the Macusi enlivens the author's narrative. It amounts to a social ceremony under the direction of the chief. Six varieties of vegetable poison are known.

The Macusi are further described as regards dress, ornamentation, music and dancing. All the tribes are practically naked, the women wearing a small beaded apron, the men a breech-cloth. The subjects of political organization and medicine men are discussed and some first-hand observations recorded. The medicine man or Kenaima is, according to the author, the operator of magic, the cause and remover of disease. Among religious ceremonies it is important to note that the Macusi have no formal puberty rites for either males or females.

The monogamous marriages between cousins of the first degree, the children of brothers and sisters, are here recorded as being typical not only of Caribs and Arawaks but of the whole forest region of eastern South America.

The Waiwai, neighbors of the Macusi on the east, in a region first penetrated by Dr. Farabee and Mr. Ogilvie, are next given as a topic. The ethnological material is diversified with some personal experiences which do much to enliven the account of native life in these pest-ridden forests. In the same general manner of treatment as the preceding notices are included the Waiwes, Parukutus, Chikenas, Katawians, Diaus Apalaiis, and some other Carib-speaking groups in northwestern Brazil, through whose country the expedition went, though without enjoying much opportunity for intensive investigation.

The anthropometrical notes and tables are given in full for most of the tribes encountered and these will be of great service in determining the racial affinities of the little-known interior tribes. The author draws an interesting conclusion; a correspondence in form of head and stature between both Caribs and Arawaks of the open



savannah country, and Caribs and Arawaks of the moist forest regions. They together comprise two types. Dr. Farabee attributes the differences here to diet.

Mention of a work like this should not overlook the most important fact that Dr. Farabee's attitude toward the natives is one of avowed sympathy and sincere appreciation of their virtues. The success of his journey is largely to be accredited to his justice in dealing with these much misrepresented aboriginals. With the true candor and courage of the ethnologist-explorer he credits their old men with wisdom and judgment, their young men with honesty and courage, their women with virtue and devotion to the home.

The appearance of Dr. Farabee's volume on the Caribs of the forests and of the open savannahs of southern British Guiana and northern Brazil is another literary landmark in the field of American exploration. With its superb illustrations this work is a fitting comparison to his former monograph on the *Central Arawaks* published as Volume IX of the same series in 1918.

FRANK G. SPECK.

SIEGFRIED, ANDRE. *Post-War Britain*. Translated by H. H. Hemming. Pp. 314. Price, \$3.50. New York: E. P. Dutton and Company.

The author, Professor at the *Ecole Libre des Science Politiques*, is well qualified by study, travel, official experience and quality of judgment to discuss the present economic and political situation in England. It is said that he has in process a similar study of the United States; it should be interesting reading.

Professor Siegfried discusses in the present book the recent development of Britain's economic policy, the "Economic Crisis" of markets, deflation, population, unemployment, costs and wages and the export trade; the main factors of Britain's prosperity; her present position in the world; the evolution in recent times of her political institutions; the present political situation; and finally and briefly, the "British Attitude Toward France." He appraises her political and economic institutions as Maurois appraised her national attitudes in his studies of the delightful Colonel Bram-

ble. He has, indeed, frequent asides upon the implications of economic or political situations in national outlook that are shrewd and even tempered. The style of writing is pleasant, the presentation of the subject an admirable sorting of vast materials.

Perhaps it is unfair to emphasize too strongly certain lacunae, but some comparison of the present difficulties with those of England after Waterloo would have aided in clarifying interesting questions, such as the possibility of developing new markets in the new consumption standards of hitherto undeveloped regions such as were opened up in the last century after the Napoleonic wars. In the discussion of overpopulation the suggestion of labor leaders that a reorganization of industry and a spread of purchasing power by new standards of distribution might have been explored profitably, and a further consideration of the relation of the merchant marine to the world's carrying trade would have given point to a peculiarly difficult aspect of unemployment and have illustrated the close integration of world economic factors with the British situation generally. It is doubtful, also, if an adequate picture of post-war Britain is to be had without some account of the effort being made to pool experience and knowledge and capacity through various movements in adult education and community reorganization. Certainly the new efforts of the parties through summer schools and discussion groups, the work of the labor movement and employer organizations in developing research, planning and educational organizations, and even the participation of churches and more formal educational institutions in civic planning should, with the already existent resources of the civil service and the well articulated legislative system, enable Britain to take greater advantage of world situations than a state like the United States, where the sense of joint effort and planning is less developed.

But Professor Siegfried has the rare ability of giving literary distinction and a vivid quality to his discussion of economic and political factors. The sections on the export trade, agriculture and finance illustrate this effectively. The *obiter dicta* are genu-

inely illuminating. "The American menace, it must be admitted, remains serious, though not vitally so. . . . Decades, not years, are required to produce a centre like London, where the rôle of international middleman is played to perfection with the aid of incomparable institutions that have been built up on the experiences of a century. This rôle can only be filled by a people who are extremely civilized, very skilful and, above all, inured by long tradition to all the practises of a profession which cannot be improvised." "We cannot exaggerate the importance of the merchant in the British economic structure, and as a rule we do not realize how international he is both in his relations and his mentality, even exceeding the industrialists. The Government is instinctively aware of this, and never undertakes any decisive measures against the wishes of that symbol of British commerce, the City."

The book is well printed and pleasant to hold and to look at. There is no index, however, and this is a genuine defect in a study of this kind. One wants to refer back to particular points or situations, and can do so only after some search over several pages. The mistakes in statements are very few indeed for a work containing of necessity so much factual material. For its fair appraisal of economic and political factors, suggestive comment upon their implications in cultural outlook, comprehension of detailed situations, and distinction in style the book is to be recommended to students as well as to the lay reader.

JOHN M. GAUS.

SOROKIN, PITIRIM. *Leaves from a Russian Diary*. Pp. 310. Price, \$3.00. New York: E. P. Dutton and Company.

It is difficult to give a brief characterization of a book on the Russian revolution. A statement of the background and personal experience of the author, and of the scope of the interpretation, will suggest to the reader the general character of the particular volume. Of peasant origin, Sorokin attained prominence in academic life as a Sociologist. He participated actively in the first revolution of 1917, as a

member of the Socialist-Revolutionary party and a co-worker with Kerensky. He consistently opposed the Bolsheviks on their accession to power, but was able to return to academic work after the acute stage of the civil war. Later, however, he was officially exiled from the country, together with a large group of university men and writers, whose general opposition was considered a possible source of danger by the Soviet authorities. A year or so after his exile, the author worked over his experiences in the form of *Leaves from a Russian Diary*. He had the facts of the developments of the revolution behind him at the moment of writing; it is not claimed that the book represents the notes entered from day to day. To this extent, therefore, the "diary" is in fact an interpretation.

The writer's close contact with, and professional interest in, the revolutionary movement, make this work a valuable addition to the literature on the revolution. It is a general, descriptive account, written as such, while the author was preparing a more technical study, later published as *The Sociology of Revolution*. The psychology of the "emigre" is noticeably present, though what one has more definitely is the interesting fact of the changes in attitude of a Socialist and revolutionist under the influence of the actualities of revolution.

S. N. H.

MACNAIR, HARLEY, F. *China's New Nationalism and Other Essays*. Pp. 398. Price, \$2.50. Shanghai, China: Commercial Press, 1925.

This volume is a collection in convenient and usable form of Dr. MacNair's writings in the *China Weekly Review* during 1923, 1924 and 1925. As is frankly conceded in the preface, the topics selected for discussion are somewhat haphazard and unrelated, but many of them are valuable for those who would learn of aspects of the present intricate domestic and international problems confronting China to-day. Dr. MacNair writes with the authority of a trained observer, endeavoring to explain some of the more perplexing phases underlying our relations with the Orient. His treatment of these matters is fair to both

sides, with no effort to shift blame to innocent shoulders. Enlightening pages await those who would broaden their knowledge concerning anti-foreignism, the protection of missionaries, racial superiority, idealism in Chinese politics, the status of the returned student, banditry, famine relief work, scholarship, and political tendencies. In reading the book one cannot escape the conclusion that there are many hopeful signs in China's present difficulties. The great variety of subject-matter and the fact that the essays were written originally at different times under different impulses necessarily causes the treatment to be somewhat uneven in quality, but taken as a whole the book affords a good insight into Chinese conditions and tendencies. Dr. MacNair has accomplished a very difficult task with notable success.

W. LEON GODSHALL.

MOREY, WILLIAM CAREY. *Diplomatic Episodes*. Pp. xvii, 295. Price, \$2.00. New York: Longmans, Green and Company, 1926.

These are posthumous essays of Prof. William Carey Morey, who held the chair of history and political science in the University of Rochester from 1883 until 1920. The ten chapters of the book deal with significant controversies and problems in the field of diplomacy. About half of the chapters are descriptive of historical situations, while the other half expound the principles of international law involved or seek to establish theses based on those principles. In the chapter on the sale of the munitions of war, the author summarizes in particularly effective fashion the rights and obligations of neutral nations with special reference to the policy of the United States. The chapter which touches on the Panama affair attempts, partly by analogy from the municipal law of eminent domain, to derive the concept of international right of way. Probably few students will find this chapter convincing.

On the whole, however, the book is stimulating and informative, and should be a valuable addition to the library of anyone interested in the study of international relations.

BENJAMIN H. WILLIAMS.

FROTHINGHAM, LOUIS ADAMS. *A Brief History of the Constitution and Government of Massachusetts*, with a chapter on legislative procedure. Pp. 254. Price, \$1.50. 2d edition. Cambridge: Houghton Mifflin Company, 1925.

The second edition of this well-known introduction to the constitutional history of Massachusetts includes brief reference to the achievements of the constitutional convention of 1917-19. The main outline and the general character of the book remain unchanged.

The student may find here an accurate and well-balanced account of the chief historical events in the constitutional development of the state. The limited space which Mr. Frothingham allows himself makes anything more than a sketch impossible. But the author has packed a remarkable deal of information within the covers of the volume, and has found room to enliven the narration with an occasional spicy quotation and glimpses of the great statesmen who have labored on the constitutional framework.

The reader will note the reference to the important decision of the state Supreme Court by which the convention's revision of the time-honored document bequeathed by John Adams, together with its seventy-odd amendments (and amendments to amendments), was nullified as a result of the excessive care of the convention to avoid any unintentional changes. Five years later an Illinois convention blocked all hope of a much-needed revision by lack of care in avoiding implied changes!

The brief account of the 1917 convention gives no account of the later developments flowing from the new amendments. One would have wished for light on the operation of the initiative and referendum, the reorganization of the state departments, the working of the budget, the effect, if any, on biennial elections, and the trend of opinion on compulsory voting. All of which suggests that Mr. Frothingham may earn the gratitude of students of government if he will consent to draw upon the wealth of his knowledge and experience of Massachusetts public life, and emulating his contemporary, Mr. Robert Luce, give us a more intimate picture of the living

forces, as well as the constitutional structure, of the old Bay State.

LEONARD D. WHITE.

JUDSON, HARRY PRATT. *Our Federal Republic*. Pp. 277. Price, \$3.00. New York: The Macmillan Company, 1925.

The author of this volume believes that the drift towards centralization, both by direct change in the Constitution and by encroaching Federal legislation, has gone so far as to endanger the vital principle of the republic—the principle of large local freedom from central control. His purpose in presenting this study is to trace “the motives and methods by which so much has been lost and so much more seems likely to be lost” and to make us realize “some of the results which are threatening.”

In the first three chapters the essentials of the Federal system are restated. From an historical viewpoint, the existence of the republic as a successful federation of states is discussed. The most vital of all the amendments in the Bill of Rights is the tenth amendment. The author is an ardent champion of the Supreme Court. But the increasing power of Congress he regards as a grave menace. “Danger to the general welfare lies in the steady aggrandizement of the Congress, not in the orderly action of the Supreme Court.”

Two chapters are concerned with a consideration of the question: Has the Federal equilibrium been maintained? The intensification of the national consciousness since the war of secession and the consequent loss in state pride and tenacity resulting in a serious derogation from state reserved rights the author views with genuine alarm. The amendments since the Civil War have all been successive invasions of the reserved rights of the states and have dangerously undermined the Federal balance. Extreme cases of derogation from the freedom of the states are the suffrage amendments. “If the states are to be ‘indestructible’ there are surely some rights which should be left to them, and few can be more significant than the right to constitute their own electorate. But in these two amendments (XV and XIX) there has been forced on states which disapprove them a provision of law which

goes to the very root of society itself.” In discussing the 16th Amendment the writer seriously questions the wisdom of intrusting the Congress with a power of almost illimitable taxation. And in considering the 17th Amendment he raises the question whether in avoiding one set of evils others not wholly foreseen have not been incurred. The enactment and the operation of the 18th Amendment are reviewed in detail. It is in regulating personal liberty that a Federal law finds its weakness. In a short paragraph at the conclusion of this chapter the author in an epigrammatic statement summarizes the main thesis of his volume. He says, “The presumption should always be for local liberty—for the rights of the states. Only imperative necessity made us federate. Only overwhelming importance should warrant adding to Federal power.”

The remaining four chapters of the work are devoted to a discussion of the more recent attacks on the Federal equilibrium. Here the writer considers amendments to the Federal constitution proposed in the 68th Congress, certain military pensions, and Federal control of education in the states. In a final chapter emphasis is placed upon the need of a new policy. The writer feels that the time has come to realize that we have gone far enough in the direction of a centralized bureaucracy at Washington. “We need to cherish, and to cherish scrupulously, the local liberty of our states.”

MARTIN L. FAUST.

CUSHMAN, ROBERT EUGENE. *Leading Constitutional Decisions*. Pp. 288. Price, \$2.00. New York: F. S. Crofts and Company, 1925.

A book should be criticized only in full view of its intended scope and purpose. In his *Leading Constitutional Decisions*, Mr. Cushman is not offering a case book in constitutional law but rather a series of illustrative cases, each with an introductory note which provides the background of history, economics and personality against which the case is to be viewed. It is intended to supply in compendious form illustrative supplementary material for class room discussion of the theory and



development of our Federal Constitution and of the institutions through which its purposes are effected. The interest of the author is that of the theorist in government rather than of the lawyer.

The topics illustrated are: Amendments to the Constitution, Principles of the Federal System, Civil and Political Rights, The President and Executive Power, Nature and Construction of the Powers of Congress, The Judiciary, Commerce, Taxation, and Territories. Forty-four cases are used. As the author says in his preface, no two editors would be likely to agree as to the cases to be included in so limited a collection chosen from so vast a field. And we have no quarrel with the editor on that score. The cases are well chosen for his purpose.

The increasing interest taken in our Federal Supreme Court in recent years has been due largely to that court's attitude toward the growing volume of social legislation by state and national legislative bodies. But this interest has also been fanned by a very considerable amount of misrepresentation of the court and of its motives and purposes by over-zealous enthusiasts for political and social propaganda. At any rate the heightened public interest has brought with it an increasing tendency to criticize the Supreme Court on the basis of the desirability of the immediate result of the decisions of the court, especially those decisions bearing upon the constitutionality of social regulation attempted by Congress and by the states. This criticism usually ignores the complex of considerations necessarily involved in the solution of the problems and attempts to create the impression that the motives of the court are selfish or corrupt.

*Leading Constitutional Decisions* should prove a sane and helpful corrective for much of this destructive criticism. Mr. Cushman points out in a way that all can understand the many and conflicting considerations that effect the court's judgment and help to mould its opinions. And while his notes are brief, they are well developed from the historical standpoint. Those on the cases falling under the heads of Civil and Political Rights, and Taxation and Commerce are especially interesting,

and contain much of valuable suggestion and condensed information for the student and the general reader. The book should be a valuable addition to the library of the inquiring layman who honestly desires to get some idea of the approach of the Supreme Court to its problems and to understand how so much divergence of honest opinion is possible in the application of the broad general provisions of the Constitution. And he finds it here within small compass. It is just because the book is in compact form and readable that it will serve as an especially good antidote for the reckless propaganda aimed at the court, not alone by laymen but even by occasional teachers in political science departments and in law schools.

The lack of an index is disappointing, but the table of contents furnishes a fair guide for the reader.

JOHN B. CHEADLE

KELLER, A. G. *Starting Points in Social Science*. Pp. 183. Boston: Ginn and Company. 1925.

This book is a collection of essays originally used in the author's classes at Yale. Some idea of its scope may be obtained from the following chapter headings: The Fact of Adjustment, The Mode of Adjustment, The Food Quest, The Transformation of Materials, Property and Property Rights, etc. As a short summary of the subject matter of sociology there is considerable to be said for such a book. In the reviewer's opinion, however, its value is considerably abridged by the fact that it oversimplifies the subject and condenses the material beyond the point where it would be useful even as a guide. For the well-prepared teacher of the social sciences it should be a suggestive outline; for the beginner it will raise more questions than it answers. Some illustrative and explanatory material, such as the author undoubtedly used in his classroom teaching, might well have been introduced, as well as a reading list suitable for students. It should be said that this book is free from the jargon which disfigures many works on the same subject and that its clarity of style is notable.

LANE W. LANCASTER.

BUSHEE, FREDERICK A. *Principles of Sociology*. Pp. 577. New York: Henry Holt and Company, 1923.

This is a substantial textbook dealing with sociology as a science rather than as a study of social problems and with emphasis on its biological aspects. The goal of progress is considered to be individual development, while integration, variation and selection are regarded as the fundamental social processes. The topics of influence of environment, conflict, state and law are discussed in connection with the desire for self-preservation. Likewise a logical relation is assumed between sex, the family, population, migration, heredity and a desire for race continuance. Psychological factors, chiefly imitation and suggestion, are referred to a desire for approbation, and the cultural facts of morality, art, science and religion to a consciousness of life.

The treatment of population, migration and heredity shows clear thinking and sound knowledge, but the author does not, however, handle the psychological and cultural factors so well. There is a tendency to force institutions into an evolutionary scheme and to ignore recent work in social psychology and cultural anthropology. Nevertheless, the book is one of the best that has appeared and is well adapted for use as a text.

CLIFFORD KIRKPATRICK.

HUGHAN, JESSIE WALLACE. *A Study of International Government*. Pp. xiii, 401. New York: Thomas Y. Crowell Company.

A valuable study of international government, starting with the earliest historic forms and analyzing later ones up to and including the League of Nations. An examination of legislative, judicial and executive branches of international government is followed by a number of chapters dealing particularly with the League of Nations. Next is a study of the fundamental problems which calls for an inquiry into economics, biology and psychology. The final chapters contain a discussion of the task before us and the outlook. Although the present League of Nations has so prominent a place in the volume, the author views it "less as an achieved goal,

than as a milestone in the progress of international organization."

E. M. P.

*Proceedings of the National Conference of Social Work*. Fifty-second Annual Session held in Denver Colorado, June 10-17, 1925. Pp. vii — 733. Chicago: University of Chicago Press, 1925.

Method is the keynote of the Fifty-second Session. The absence of invective in papers presented indicates an increasingly scientific attitude toward problems to be solved, and an increasingly tolerant attitude toward people to be corrected.

The feature of the General Sessions is a debate in which Owen R. Lovejoy presents the case for the Twentieth Amendment with characteristic probity, while his opponent does little more than resurrect the ghosts of "states rights," "bureaucracy," and "paternalism." The presidential address represents a new stage in our development of social philosophy.

The most impressive division papers are those on Health, Mental Hygiene, and Organization of Social Forces. The division on Children is well planned, but disappointing in parts. The division on the Family reveals some new phases of treatment for special groups. Reduction of the division on Delinquents and Correction to three desultory papers suggests a trend toward the explanation of behavior in terms of more concrete factors such as child labor, the school, poor mental hygiene.

Contributions of this volume to social work may be seen in its guidance of workers toward a higher professional technique, and its emphasis upon flexible programs for treatment.

W. WALLACE WEAVER.

WILCOX, DELOS F., *Depreciation in Public Utilities*. Pp. 112. Price, \$2.00. New York: 1923, National Municipal League.

This volume, the second in the National Municipal League's monograph series, has a somewhat more limited scope than its title indicates. It deals almost entirely with depreciation in the field of street railways. The first part is devoted to various theories of depreciation and the fallacies underlying most of them. Such familiar

matters as the difficulty of forecasting obsolescence and the absence of a satisfactory measuring-stick for determining "fair value" are treated in considerable detail. Part two sets forth the author's method of arriving at accrued depreciation. The volume is concluded with a brief description of the manner in which ten leading American street railway companies handle the problem of depreciation.

The author, who is one of the few experts definitely aligned on the side of the public, has two main theses to establish. The first is that the "fair value" of a public utility should be equivalent to the total investment, less depreciation. (The Supreme Court still remains unconvinced.) The second is that after a street railway company has been operating for a considerable period of years, the total accrued depreciation cannot be much less than fifty per cent. The book is clearly and interestingly written, and should prove of real value to those interested in public utility regulation.

AUSTIN F. MACDONALD.

*Trade Associations, Their Economic Significance and Legal Status.* National Industrial Conference Board. Pp. 388. Price, \$3.00. New York: 1925.

*Public Regulation of Competitive Practices.* National Industrial Conference Board. Pp. 281. Price, \$3.00. New York: 1925.

These studies by the National Industrial Conference Board should shed some revealing light on the perplexing relationship, as defined by the anti-trust laws, existing between the national government and business. Since the rise of big industrial combinations the government has been actively engaged in suppressing all manner of uneconomic and unethical business practices, while, on the other hand, business, big and small, has been equally persistent in devising ways of evading these legal restrictions, thus drawing the government more and more into business and business ever deeper in the toils of politics. There is need for dispassionate analyses of this situation, to the end that a fuller understanding of the proper spheres of govern-

ment and industry may result in a more amicable and more intelligible policy of public regulation.

To this end, these reports of the Conference Board are useful contributions. The volume on *Trade Associations* classifies trade association activities into those which are unqualifiedly prohibited by law, those which are so clearly legitimate that they raise few questions of public policy, and which fall within the sphere of the "rule of reason." The analysis is logical and judicious, though the construction of the rule of reason is largely conjectural and too broad. Though not a brief for trade associationism, the suggestion is ventured that "through co-operation in trade and industry, safeguarded by the mandatory maintenance of freely competitive conditions, it is possible that there may be approximated the elusive synthesis of freedom and authority in the economic sphere."

The second volume is a study of the market conduct of private enterprises, in an effort to determine how government regulation, primarily through the Federal Trade Commission, affects the price policies, the sales promotion policies, and the trade relations policies of business concerns. The problem is considered from the points of view of the consumer, the producer, and the lawyer and political scientist. In the main, administrative regulation is found to represent a constructive force in the development of trade and industry, but the Trade Commission is criticised for its failure to formulate definite standards of what constitutes a basis for procedure in respect to each type of questionable business practice, and for its failure to recognize the limits of its jurisdiction as primarily a fact finding body.

RINEHART J. SWENSON.

ADAMS, A. B. *Economics of the Business Cycle.* Pp. x, 263. New York: McGraw Hill Book Company, 1925.

Professors of business cycles can no longer advise their classes that a textbook for their course is yet to be written; nor is it necessary for students to wade through volumes of statistical indices and charts on the trend of prices, wages, credit conditions, production and trade volume. In eleven short

chapters the author has digested all of these, put them into readable form, and thereby satisfied a real need.

The first four chapters are heavy reading—volumes are confined to chapters. The business system, economic equilibrium, nature of the business cycle, and its statistical description may be found in any of the standard works on the subject, but nowhere will the scholar find a more concise, clear-cut treatment of such matters than in these four chapters. This alone would justify the work, but the author's real contribution is in his analysis of the factors which initiate and terminate the cycle, his criticism of generally accepted theories, and his proposed methods of control. These are a genuine contribution inasmuch as former writers have simply expanded on the works of Mitchell.

The author criticises the self-generating credit, the unequal distribution, and the physical force theories, adhered to by Mitchell, Hobson and Robertson respectively; plunges immediately into an analysis of the fundamental cyclical causes and effects, and indicates methods for their control. For example, he suggests that investment credit be placed under the control of the Federal Trade Commission while commercial credit may be supervised by the Federal Reserve Board. Other methods of control are hinted at, but the author does not carry all of his suggestions to their logical conclusion. He leaves this task to subsequent writers.

The author has satisfied a long-felt need and rendered a true contribution in bringing forth a readable volume of inestimable value to administrators, economists, and business men.

JOHN G. HERVEY.

CRUM, W. L. and PATTON, A. C. *An Introduction to the Methods of Economics Statistics*. Pp. xii, 493. A. W. Shaw Company, 1925.

The past two years have produced a large crop of texts on statistical method. The book by Crum and Patton may be placed among the best of these new additions. This book was designed to stress the application of statistical methods to economic phenomena, as its name indicates, and this

has been accomplished faithfully by using throughout illustrations taken from economic data and explaining methods particularly adopted to the treatment of the latter.

The book is written in a very clear and lucid style, which is frequently lacking in texts on statistical method. The various methods receive careful explanation without taking too much for granted. Moreover, it is richly illustrated with tables and charts, thus making it easy to understand the explanations in the text. A word of praise should also be given to the way in which the subject matter is organized, which is logical and interesting.

The book is divided into three parts. In Part I, Statistical Data, the treatment of primary and secondary sources is somewhat too brief to be of practical value to the student, but this may be explained by the fact that the book was probably intended to give primarily a treatment of the methods of statistical analysis. In Part II, General Analytical Methods, the treatment given is the best that one could give in the space allowed for that part of the subject-matter. Part III, The Analysis of Time Series is devoted to a consideration of index numbers and of the methods used to analyze the various fluctuations in economic series. The explanations given here are excellent, but the authors limit their discussion largely to the more complicated methods in use. The moving average method receives very brief mention, and only one other method of determining seasonal fluctuations in addition to the link relative method is given.

The book contains also a number of valuable appendices giving laboratory suggestions, data for exercises, some further elaboration of the mathematical problems involved in the normal curve of error and correlation, and a table of logarithms.

JACOB PERLMAN.

CAMPBELL, C. G. *Common Wealth*. Pp. 472. Price, \$3.00. The Century Company, 1925.

This is a treatise in economics. Its objective is indicated by the title, *Common Wealth*. The book covers the usual range of topics in a work on general economics.



It is advertised on the jacket as one that will alter the preconceptions of most readers. This does not seem to be the case. Some of the ideas expressed may not be acceptable in all quarters, but they are not new. For the most part they are very traditional.

The jacket also tells us that the author "attempts to reduce the terminology of economics to the language of general intelligibility." He certainly fails in his high endeavor. The ideas are so beclouded in verbiage that it is doubtful if they will often catch the glint of a reader's eye. The terminology is, in many instances, new and strange. Not only the terminology, but also the ponderous phrasing often befogs that which is most elementary.

The author lays emphasis on the communal nature of wealth and on the corollary to this, that income and services should be reciprocal. This is good. But just what needs to be done in order to proportion income to service is not revealed. The difficult question of how to measure productivity (social productivity) in an exchanging society is not tackled.

Much stress is laid upon production versus consumption in true classical style. There is seemingly no appreciation of the fact that the reason for the extension of factories is that the children of men may have factory products, and that in a society with an improving technique it is a most important task to so stimulate wants, and so distribute buying power that consumers' goods will be sufficiently used to keep the production goods reasonably well employed. That is, the author does not note the problem of the balance between leisure and product, which is vital in any society, and especially in one with an improving technique. Shall we consume more and work less? Just where draw the line? The question wrestled with by our author as to the balance between the production of production goods and the production of consumption goods is not of great significance in our society so far as the importance of stressing the former is concerned. This idea has been greatly overworked by all the generations of economists. But little can be stored up in a modern society. Production must be from day to day. Only a very little of current economic effort can

properly be directed to the building of equipment. The danger seems to be in having too much rather than too little fixed capital.

Lack of appreciation of the constant shift in economic relationships is evident by the following statement which appears in italics:

"The issue between Individualism and the Common Weal will need first to be clearly laid down, fought out, and decided" (p. 398).

This issue certainly cannot be decided at any one time. The fact of continuous change means that a good arrangement at one time may be very bad at another date. History is certainly replete with illustrations that prove this beyond cavil.

Near the close of the book it appears that the author is vitally interested in racial survival, and according to the concluding sentence, in the survival of "our own racial strain." To this end is the common wealth to be advanced. This is a welcome note. For however vainglorious may be this implicit challenge of the "Nordics" to all comers, it does explain how the author could have carried this laborious work through to the 460th page.

H. G. HAYES.

JOME, HIRAM L. *Economics of the Radio Industry*. Pp. 332. Price, \$4.00. Chicago: A. W. Shaw Company, 1926.

Professor Jome is not one of those who think that the story of radio can properly be written only in terms of economics. What he has really done is to assemble a large amount of data and arrange them so as to give a broad and orderly view of the development of the art and science of radio communication.

There are sufficient historical facts to form a foundation for his excellent economic study of the radio industry and to foretell, with some degree of certainty, the influence of economics on the future of radio. The political and social significance of radio, particularly radio broadcasting, is outlined in such a manner as to indicate clearly the necessity for government control, to make this new addition to our systems of communication socially serviceable.

Any one interested in this new engineer-

ing development will find most, if not all, of his questions answered in *Economics of the Radio Industry*.

TOSDAL, HARRY. *Problems in Sales Management*. (Revised edition.) Pp. 850. Chicago: A. W. Shaw Company, 1925.

While this book is called a "revised" edition, it is more than that. The majority of the cases are new and the text material represents a closer analytical survey of the subject. It is really a combination text and problem book. In comparison with the first edition it demonstrates:

- (1) The advance made in preparation for case book study.
- (2) The strides made by industry during the last few years in investigating and planning sales processes.

The new text is replete with valuable footnotes, charts and diagrams taken from real sales situations. The bibliography at the end of each chapter is most helpful. Under the chapter *Management of Sales Force*, fifteen pages are devoted to references to general texts, business, scientific and trade magazines. These are so classified that one may locate the leading supporting material on Selection of Salesmen, Training, Sales Manuals, and allied subjects.

The scope of this book is limited to sales management in wholesale and manufacturing enterprises. It includes the consideration of a sales department under various types of organization control for, as the author says, "sales departments vary because there is lack of any common conception of the function of such a department."

To students of sales management the chapter on "Sales Research and Planning" is of interest, for it brings out the possibilities of standardization and simplification in distribution, although much of the material available in business is still inaccurate and difficult to secure.

Some problem books represent merely a student attitude and their full comprehension necessitates collaborated material or supervised assistance. The inclusion of text book material, author's comments, outlines, and the collection of actual detailed problems makes this an instructive

and useful text not only for students but for those engaged in business.

ROYAL A. ROBERTS.

TOSDAL, HARRY R. *Principles of Personal Selling*. Pp. 752. Price, \$4.00. Chicago: A. W. Shaw Company, 1925.

Dr. Tosdal's seven hundred pages of material might be divided into four general divisions:

*Philosophical treatise on selling and the psychology of selling.* A lengthy discourse is given in defining salesmanship, and its economic, social and ethical status during the different historical periods. Part of the psychological discourse deals with the conflicting viewpoints of prominent psychologists and is of little interest to the student or practical man.

*Knowledge desired before attempting to sell.* An excellent account is given of the different types of selling appeals. The salesman should also be acquainted with much information about the customer so as to sell the buyer what he really needs. Stress is placed upon the value of having a definite plan in securing prospects and in calling upon the customers. The salesman's equipment, and its proper uses are explained.

*Information about the different types of buyers.* The author treats upon the purchasing policies and practices and appeals of greatest value from the viewpoint of the following buyers: consumers, retailers, mail-order houses, chain stores, wholesalers, manufacturers, co-operative buying associations, jobbers, and foreign houses.

*Salesmanagement.* The usual aspects of salesmanagement are discussed, i.e. determining the sales policies, hiring, training, organizing and supervising the sales force, and methods of stimulating the salesmen to greater effort through sales quotas, compensation plans, contests, conventions, conferences and correspondence. Interdependence of the sales and other departments, advertising, credits and collections, methods of creating good-will, and other allied topics, with which the salesmen and salesmanagers should be acquainted, are discussed.

The book is written from the view-point of the salesmanager rather than from the salesman; little is said about how to prepare

a sales talk or perform the numerous steps involved in selling. But it constitutes a good textbook on salesmanagement, and will be of great help to salesmanagers who are interested in studying general principles with a viewpoint of adapting them to their own selling problems.

BOYLE, JAMES E. *Marketing of Agricultural Products*. Pp. 479. New York: McGraw-Hill Book Company, Inc.

This book opens with two chapters on consumer demand, then discusses the relation between production and marketing, and passes on to a description of middlemen and the functions they perform. After a consideration of prices, the methods of marketing eleven of the leading agricultural products are briefly described. The last 65 pages of this 460-page book are devoted to "Programs" for improvement.

This book is sound in its economics; it contains very few statements to which one can take exception. It gives a good picture of the marketing system and the problems met in attempting improvements. It is a good common-sense presentation of the subject, devoid of impracticable propositions and unnecessary emphasis on single features. The book is well proportioned.

The value of this book lies more in the presentation of fresh and stimulating points of view than in any important contributions to our knowledge of the fundamentals of marketing. The emphasis of consumer demand is worth while, whether or not there are many teachers of marketing who may care to use it as their approach to the subject. The author's point of view on this matter is expressed in the following sentences: "In the end the consumer dictates both production and price. The consumer's needs must be met. Consumer demand is, therefore, the starting point of our study of marketing" (p. 4).

The importance that the author attaches to his statement that "The fundamental step in marketing is to adjust production to consumer demand" (p. 55) probably causes him to include production as one of the six fundamental functions of marketing (p. 106). It is doubtful whether this leads to the clearest kind of thinking. There are other questions involved in the author's enumer-

ation and classification of functions, but the reviewer does not care to quarrel on this point, because he believes that the best understanding of marketing is achieved through a knowledge of marketing functions, whatever they are called, or in whatever order they are listed. Professor Boyle is an exponent of the functional approach.

The discussion of co-operative marketing contains many worth while thoughts. It is pointed out that co-operation is not a religion. He says that "It is not a question of how much nervous joy or spiritual exaltation may be had out of co-operative selling, but the plain, cold business question of net cash returns" (p. 407). He also points out that one of the weaknesses of co-operation is that it is "over-sold" by reason of "big campaigns, whirlwind drives, evangelistic speeches," etc. (p. 409). After showing what co-operation cannot do, he points out the various ways in which well-managed co-operatives have effected improvements in the marketing process.

The treatment of many important phases of marketing is not entirely adequate. For example, the programs for improvement do not contain sufficient information about the accomplishments of produce exchanges and trade organizations, the progress possible in grading and standardization, the economies effected by private companies through increased volume, simplification of functions, etc. On the whole, the book does not contain much that is new, but it is an interesting and stimulating arrangement of facts on this important subject. It is intended primarily for use as a textbook, and contains questions and illustrative material at the ends of the chapters.

L. D. H. WELD.

DE HAAS, J. ANTON. *Hides and Skins*, of Raw Material Markets series. John R. Arnold, Executive Secretary, National Association of Importers of Hides and Skins. Pp. 606. Price, \$6.00. A. W. Shaw Company, 1925.

This six hundred-page book is a complete and authoritative reference work covering the field embraced in the title. Sources, technique of process, trade procedure and statistics are presented for each of the principal classes of product. Especially worth

while for reference purposes is the tabular presentation of data and the glossary of technical terms. The series on raw materials entering into international trade, of which this is the first number, will supply a need for authoritative data in compact form that has become increasingly apparent as the world becomes more closely knit together from a trade standpoint.

GOODRICH, CARTER. *The Miners' Freedom*. Pp. 189. Price, \$2.00. Boston: Marshall Jones Company.

The shift from manual to mechanical methods of production can be seen in every kind of American industry. To most of us the results of this shift are portrayed in data showing increases of production, speeded operations and the high merit of intricate complex machinery.

But there is a backfire to all of this mechanical achievement. The workers are being compelled to shape and adjust themselves to the rigid demands of machinery.

In *The Miner's Freedom* the author pictures these necessary adjustments that must be made by the coal miners because of the advent of mining machinery.

That the change forced upon miners is much more difficult for them compared with other industries is pointed out by Mr. Goodrich and this because of the greater freedom and greater individualistic control than is given miners under old pick mining.

The author asks, and I believe rightly so, that there be given consideration to this problem of the present day miner.

If the reader of this review has not yet considered of importance the social results that come to the workers because of the shift from manual to machine production, I advise the reading of *The Miner's Freedom*. He will have acquired a new slant on the labor problem.

CHARLES REITELL.

BURNS, C. DELISLE. *The Philosophy of Labour*. Pp. 126. Price, \$1.40. New York: Oxford University Press.



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